

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ROXANNE M SPOORES
3022 AVE J
FT MADISON IA 52627

APAC CUSTOMER SERVICES OF IOWA
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-09089-CT
OC: 07/18/04 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Roxanne Spoore filed an appeal from a representative's decision dated August 19, 2004, reference 02, which denied benefits based on her separation from APAC Customer Services of Iowa (APAC). After due notice was issued, a hearing was held by telephone on September 15, 2004. Ms. Spoore participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Spoore was employed by APAC from November of

1995 until July 16, 2004. She was last employed part time as a telephone sales representative averaging approximately 20 hours of work per week. She was discharged and told that it was due to dispositioning a call incorrectly. A different numerical code is used to indicate whether the individual called has refused the sale or if they wish to be recalled. The employer felt the call at issue should have been coded as a refusal but Ms. Spoore's coded it as a recall.

Prior to her separation, Ms. Spoore's had been disciplined on one occasion because she gave her e-mail address to an individual she was calling. She did not recognize that such conduct was prohibited. On another occasion, she was warned because the employer felt she was talking over the customer. It was Ms. Spoore's training to continue to offer rebuttals when a customer declined a sales offer. She was at all times working to the best of her abilities.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Spoore's was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer did not participate in the hearing to provide details as to the reason for Ms. Spoore's discharge. She was told that it was due to incorrectly dispositioning a call. There was no evidence that this was anything more than an isolated error, if an error occurred at all. The other matters for which Ms. Spoore's was warned constituted no more than isolated lapses in good performance.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to establish substantial, disqualifying misconduct. While the employer may have had good cause to discharge, conduct which might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated August 19, 2004, reference 02, is hereby reversed. Ms. Spoore's was discharged by APAC but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/tjc