

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KIMBERLEY S FRITZ**  
Claimant

**APPEAL NO. 09A-UI-02251-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNITES STATES CELLULAR CORP**  
Employer

**OC: 12/28/08**  
**Claimant: Respondent (2-R)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

United States Cellular Corporation (USCC) filed an appeal from a representative's decision dated February 3, 2009, reference 01, which held that no disqualification would be imposed regarding Kimberley Fritz' separation from employment. After due notice was issued, a hearing was held by telephone on March 9, 2009. The employer participated by Crystal Voster, Customer Service Coach, and Paula Rosenbaum, Associate Relations Representative. Exhibit One was admitted on the employer's behalf. Ms. Fritz did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Ms. Fritz was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Fritz was employed by USCC from September 15 until December 5, 2008 as a full-time customer service representative. She was discharged for violating a known company rule. Associates are prohibited from providing call details to customers.

On December 2, a customer called to report a stolen phone. Ms. Fritz provided the customer with the date and time of the last call made with the phone. She was only allowed to answer "yes" or "no" to a customer's question as to whether the phone had been used. When questioned, Ms. Fritz acknowledged that she knew her actions were contrary to policy but that she disagreed with the policy. She also admitted that she had provided such information to customers in the past in spite of knowing that it was a violation to do so.

In making the decision to discharge, the employer also considered a verbal warning Ms. Fritz had received for not verifying a customer's identify before providing information. Also considered

was the fact that she was 25 minutes late on November 1 for unknown reasons. Ms. Fritz was notified of her discharge on December 5, 2008.

Ms. Fritz filed a claim for job insurance benefits effective December 28, 2008. She has received a total of \$1,422.00 in benefits since filing the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Fritz was discharged by USCC. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. Ms. Fritz was discharged for violating a known company rule. This was not an isolated instance of poor judgment. She acknowledged to the employer that she had given information on December 2 that she knew she was not allowed to provide and had done so in the past. Her statement that she disagreed with the policy suggests that her disregard was deliberate and intentional.

The employer had the right to expect that Ms. Fritz would not disclose information she was prohibited from providing. Her unilateral decision to ignore the policy constituted a substantial disregard of the standards the employer had the right to expect. She did not participate in the hearing to offer testimony as to why she may have believed her actions were justified. For the reasons cited herein, it is concluded that the employer has satisfied its burden of proof. Accordingly, benefits are denied.

Ms. Fritz has received benefits since filing her claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if Ms. Fritz will be required to repay benefits.

**DECISION:**

The representative's decision dated February 3, 2009, reference 01, is hereby reversed. Ms. Fritz was discharged for misconduct in connection with her employment. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Fritz will be required to repay benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css