

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON HUMPHREY
Claimant

APPEAL NO. 07A-UI-00823-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED STATES CELLULAR CORP
Employer

OC: 12/10/06 R: 02
Claimant: Respondent (2)

Section 96.5-2-a – Discharge for Misconduct
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 4, 2007, reference 01, decision that held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was held on February 7, 2007. The claimant participated. The employer participated through Lisa Doggal and Dennis Leroy. Exhibits One, Two, and Three were received into evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct and whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed from April 15, 2006 until October 25, 2006, when he was discharged. Mr. Humphrey held the position of agent account executive. He was employed on a full-time basis and was paid by salary. Lisa Doggal was the claimant's immediate supervisor.

The claimant was discharged after the company determined that he had extensively used a company business-only credit card for personal use and had not paid of number of credit card charges, although he had been fully reimbursed by the company for business-related expenses. Mr. Humphrey was aware that the company credit card was to be used for business-related expenditures and he was expected to keep current on card payments based upon reimbursements that were made to him from the company.

It is the claimant's position that the card was inadvertently used, as it resembled a "debit card" that he had otherwise possessed. The claimant also contends that he was not fully aware of the limitations placed upon his purchases by company policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the employer has sustained its burden of proof in establishing that the claimant's discharge took place under disqualifying conditions. The evidence establishes that the claimant was provided a credit card. He was reasonably informed by the company that purchases and transactions utilizing the card were for the purposes of US Cellular Corporation.

The claimant was discharged after the company determined that he had made extensive personal purchases and transactions using the company's business card and had not paid debt that was due on the card although he had been fully reimbursed by the company for business related transactions. Prior to being discharged, the claimant had made representations to the company that the card was being properly paid in a timely basis, although the claimant was not making payments as required. Further investigation showed numerous unpaid transactions that the claimant had charged to the company that were not for business-related reasons. The administrative law judge finds the evidence to be in support of the employer and the employer has sustained its burden of proof in establishing that the claimant's discharge was due to misconduct. Benefits are denied.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge holds that the claimant is overpaid unemployment insurance benefits in the amount of \$2,880.00 pursuant to Iowa Code section 96.3-7 because a decision has determined the claimant is ineligible to receive benefits due to a discharge for misconduct in connection with the work.

DECISION:

The January 4, 2007, reference 01, representative's decision is hereby reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$2,880.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/kjw