

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

ALLISON M HAGEMANN
923 VINE ST
DAVENPORT IA 52804

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

Appeal Number: 05A-UI-08255-CT
OC: 07/03/05 R: 04
Claimant: Respondent (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
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

APAC Customer Services of Iowa (APAC) filed an appeal from a representative's decision dated July 28, 2005, reference 01, which held that no disqualification would be imposed regarding Allison Hagemann's separation from employment. After due notice was issued, a hearing was held by telephone on August 29, 2005. Ms. Hagemann participated personally. The employer participated by Turkessa Hill, Human Resources Coordinator.

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. Hagemann was employed by APAC from

September 27, 2004 until July 2, 2005 as a full-time telephone sales representative (TSR). She was discharged for hanging up on customers. Ms. Hagemann was being monitored on July 2 when it was discovered that she was hanging up on calls without responding.

Ms. Hagemann had placed a number of calls on July 2 that were responded to by answering machines. A TSR is allowed to hang up if they get an answering machine. The employer expects the TSR to listen long enough to determine if the response is an actual person rather than a machine. Ms. Hagemann was disconnecting calls without waiting to see if she had a live person on the line. She disconnected from five calls on July 2 where there was a person on the line rather than an answering machine.

Ms. Hagemann had received a written warning on March 17, 2005 for hanging up on a customer. She did so on this occasion because she had an immediate and urgent need to get to a restroom. Hanging up on customers was the sole reason for the discharge.

Ms. Hagemann has received a total of \$889.00 in job insurance benefits since filing her claim effective July 3, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Hagemann 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. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Hagemann was discharged for hanging up on customers. She had been warned about such conduct. Although the incident in March was due to an emergency, the warning did put her on notice that hanging up on customers was contrary to the employer's standards and would result in disciplinary action.

The employer's business depends on TSR's availing themselves of every opportunity to talk to potential customers. The employer had the right to expect that Ms. Hagemann would respond to every call directed to her. The fact that she had received a number of answering machine calls on July 2 was not justification for her failure to listen to make sure she had an answering machine rather than a person before hanging up. This might be a different case if there had been five disconnections, each at various times during the course of the employment. The discharge was prompted by the fact that there were five disconnections in one day. The employer had the right to expect that Ms. Hagemann would not merely assume that her calls were answering machines. Her actions had the potential of losing customers. For the reasons stated herein, it is concluded that Ms. Hagemann conduct constituted a substantial disregard of the employer's interests and standards and is, therefore disqualifying misconduct. Accordingly, benefits are denied.

Ms. Hagemann has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated July 28, 2005, reference 01, is hereby reversed. Ms. Hagemann was discharged for misconduct in connection with her employment. Benefits are withheld until such time as 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. Ms. Hagemann has been overpaid \$889.00 in job insurance benefits.

cfc/kjw