

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RALYNN C PHILBRICK

Claimant

APPEAL NO: 11A-UI-14752-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC

Employer

OC: 10/16/11

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 10, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer notified the Appeals Section before the scheduled hearing that the employer would not be participating in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in October 2010. She worked as a full-time customer support professional. On October 14, 2011, the employer discharged her for transferring refunds to an unknown credit card. The employer's records indicated the refunds were under the claimant's ID number.

When the claimant would not admit she engaged in any fraudulent activity, the police became involved. The claimant is cooperating with the local law enforcement officials.

While the transfers show up under the claimant's ID number, anyone could have gained access to her number because this information was kept in an unlocked drawer. As of December 7, the local law enforcement officials have not charged the claimant with any crime. The claimant does not know if the unknown credit card owner has been identified.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The employer has the burden to prove the claimant was discharged for work-connected

misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on the facts presented during the hearing, the employer had business reasons for discharging the claimant. The evidence does not establish that the claimant transferred refunds to an unknown credit card even though the refund transfers were done under the claimant's ID. Therefore, the facts do not establish that the claimant committed work-connected misconduct. As of October 16, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's November 10, 2011 determination (reference 01) is reversed. The employer discharged the claimant, but did not establish that she committed work-connected misconduct. As of October 16, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs