

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAINNA M ALEXANDER
Claimant

APPEAL NO. 12A-UI-07268-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 05/20/12
Claimant: Respondent (2-R)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Stream, filed an appeal from a decision dated June 12, 2012, reference 01. The decision allowed benefits to the claimant, Alainna Alexander. After due notice was issued a hearing was held by telephone conference call on July 11, 2012. The claimant participated on her own behalf. The employer participated by Human Resources Generalist Bangone Chanthavong and Team Leader Erin Williams.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Alainna Alexander was employed by Stream from July 28, 2008 until May 23, 2012 as a full-time customer service professional (CSP). She received the employee handbook at the time she was hired. The policies contained in the handbook provide for discharge for employees "avoiding" calls.

On May 18, 2012, Team Leader Erin Williams was doing her routine, random quality check on the CSPs. She discovered Ms. Alexander had "avoided" a call. By listening to the recording of the call and following along with the view of the CSP's computer screen synchronous with the call, she could tell Ms. Alexander had not answered the customer's call with the correct greeting and had not asked the confirmatory questions before accessing the customer's account on the computer. The call was ended without the required sign off.

The matter was reported to human resources and Ms. Williams was advised to conduct a more thorough investigation. Ms. Williams did so finding other incidents. She had at least two other team managers listening to the recording and view the computer screen to confirm her conclusions. The matter was referred back to human resources with a recommendation for discharge.

Ms. Alexander was discharged on May 23, 2012, for avoiding the call, and accessing the customer's account without authorization. She denied avoiding the call and maintained there was a problem with the phones that day. The employer's records show no phone problems that day or that any report of phone problems had been made. She then said there was static on the line and she could not hear the customer, but the team managers who listened to the recording disagreed and could even hear the customer making small talk with someone else when he thought he was still on hold.

Another team leader listened to the claimant's rebuttal and left the meeting to listen to the recording again. She came back and confirmed the discharge.

Alainna Alexander has received unemployment benefits since filing a claim with an effective date of May 20, 2012.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant was discharged for avoiding a call from a customer, accessing the customer's account without proper authorization and moving from area to area in the account to make it look as though she were actually processing a call. Her denials lack credibility due to the inconsistency of her rebuttal. She acknowledged at the very least she accessed the customer's account without first getting the required authorization. There was no explanation as to how

there could be static on the line and phone problems when Ms. Williams testified to very specific small talk she heard from the customer on the recording.

The claimant was discharged for avoiding calls and accessing a customer account without authorization. She was defrauding the employer by pretending to work and help customers when, in fact she was not. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of June 12, 2012, reference 01, is reversed. Alainna Alexander is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs