

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH GATZ**  
Claimant

**APPEAL NO: 13A-UI-08971-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STREAM INTERNATIONAL INC**  
Employer

**OC: 07/24/13**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Stream International, Inc. (employer) appealed an unemployment insurance decision dated July 24, 2013, reference 01, which held that Kenneth Gatz (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 12, 2013. The claimant participated in the hearing. The employer participated through Bangone Chanthavong, Human Resources Generalist. Employer's Exhibits One through Three were admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time customer support professional from May 22, 2009 through June 21, 2013. He received a final warning on June 17, 2013 for not using IAD on a call, which is a legal requirement and the paragraph must be read verbatim to the customer. The claimant was discharged when he failed to do this again on June 18, 2013. He contends that the IAD did not show on his computer screen or he would have read it. The claimant said there was a problem with the program and the employer confirmed there are no employees working in that program any longer. There is no other disciplinary record.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if he was discharged for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. It is the employer's burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989).

The claimant was discharged on June 21, 2013 for failure to read a legal disclosure. However, the claimant said the disclosure did not come up on his computer screen and he could not read it if it did not show on his screen. The employer has not produced evidence disputing this claim other than to say that it did show on his screen but the employer witness was not involved with the termination. The employer has not met its burden. Work-connected misconduct as defined by the unemployment insurance law has not been established in this case and benefits are allowed.

**DECISION:**

The unemployment insurance decision dated July 24, 2013, reference 01, is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css