

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXANDRIA L DREEZEN
Claimant

APPEAL NO. 10A-UI-04006-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

**Original Claim: 01/31/10
Claimant: Respondent (2/R)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's March 3, 2010 decision (reference 01) that concluded the claimant was qualified to receive benefits, and the employer's account was subject to charge because she had been discharged for non-disqualifying reasons. A telephone hearing was held on April 20, 2010. The claimant participated in the hearing. Debbie Nelson, the human resource manager, and Mike Mahnke appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on May 22, 2009. The claimant worked as a full-time support specialist. The employer is a call center and provides support for Apple I-Phones. The claimant understood that if an employee took one of the employer's Apple I-Phones, the employee would be discharged.

After some employees bragged about taking some of the I-phones at work, the employer investigated. The claimant's boyfriend and another employee reported that while the claimant did not personally take one of the three stolen phones, she knew they had done this and she had used the stolen phone. The claimant rides to work with her boyfriend and lives with him. When the employer talked to the claimant, she reported that her boyfriend and another person had taken the I-phones. The claimant did not say anything before the employer confronted her about the stolen phones.

On January 27, 2010, the claimant signed a termination paper that indicated she had stolen a phone. On January 27, the claimant did not object to signing the paperwork and she did not write any comment indicating she disagreed that she had stolen a phone. The employer discharged the claimant on January 27, 2010.

The claimant established a claim for benefits during the week of January 31, 2010. The claimant has filed for and received benefits since January 31, 2010.

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. 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).

After the employer learned some employees bragged about stealing some I-phones from work, the employer investigated. While the claimant may not have personally taken the phones, her assertion that she did not know her boyfriend, who also worked for the employer, had stolen at least one phone is not credible. The claimant's failure to report this theft or make sure the stolen equipment was returned constitutes a substantial disregard of the standard of behavior the employer has a right to expect from an employee. The claimant committed work-connected misconduct. Therefore, as of January 31, 2010, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section.

DECISION:

The representative's March 3, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 31, 2010. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is Remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw