

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUSTIN J RUHLAND
Claimant

APPEAL NO: 13A-UI-04088-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 08/19/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 26, 2013 determination (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing or participate in the hearing. Stacy Albert and Samantha Edge appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 24, 2012. The claimant worked as a full-time customer service professional. The claimant received a copy of the employer's policies. One policy informs employees that if they have two no-call/no-show incidents, the employer will end the employee's employment for job abandonment.

The claimant worked as scheduled on January 25, 2013. He was scheduled to work on January 27, 28, 29 and 30. The claimant did not call or report to work on January 27, 2013. On January 28, the claimant contacted his supervisor, Edge, and asked about a leave of absence or other options he had because he had some personal issues concerning his child's mother. The claimant agreed to meet with Albert the next day, January 29, to fill out the necessary paperwork for a leave. The employer had granted the claimant a leave, but he had to sign the paperwork before the leave could start. The claimant did not meet with Albert or call on January 29.

On January 30, the claimant did not call or report to work. Instead, the claimant sent Edge a Facebook message and asked if he still had a job. Since the claimant had not met with Albert on January 29 and did not call or report to work on January 29 or 30, the employer considered

the claimant to have abandoned his employment and ended his employment on January 30, 2013.

The claimant reopened his claim for benefits during the week of March 3, 2013. He has filed for and received weekly benefits since March 3, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence indicates the employer discharged the claimant on January 30, 2013.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's failure to meet with Albert on January 29 to complete the necessary paperwork for a leave after he agreed to do so and then did not call or report to work on January 29 and 30 amounts to a deliberate disregard of the standard of behavior the employer has a right to expect from an employee. The employer discharged the claimant for work-connected misconduct. As of January 27, 2013, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since March 3, 2013, will be remanded to the Claims Section to determine.

DECISION:

The representative's March 26, 2013 determination (reference 05) 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 27, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he 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 of benefits he may have received since March 3, 2013, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll