

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CANDICE C MARTIN
Claimant

APPEAL NO: 13A-UI-02528-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 01/13/13
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's February 21, 2013 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Bong Chanthavong, a human resource generalist, and Tracy Rosowski, a team manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 April 2011. She worked as a full-time customer support professional. Prior to October 27, 2012, the claimant's job was not in jeopardy.

On October 27, 2012, the claimant left work and forgot to punch out. Her computer was frozen or locked up so she could not sign off from her computer. The claimant had not planned to be gone from work for 36 minutes, but she was. Before she came back to work, a co-worker called the claimant because her computer had rebooted and customers were trying to talk to her on a chat line. The co-worker wanted to close the claimant's computer, but needed the claimant's user ID and password. The claimant gave the co-worker this confidential information so the co-worker could close her computer. When the claimant returned to work, she changed her user ID and password. The employer's computer policy informs employees that they are not to give anyone their user ID or password.

Rosowski was not at work on October 27. The claimant did not report her extended break to another manager on duty that day. On Monday, October 29, the claimant told Rosowski what had happened on October 27.

On November 5, the employer discharged the claimant because she violated policy by giving a co-worker her user ID and password. The employer also concluded that by failing to inform a manager on October 27 that she had forgotten to punch out when she left, the claimant stole time from the employer.

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).

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 employer established business reasons for discharging the claimant. Since the claimant's job was not in jeopardy prior to October 27 and this was the first time she forgot to punch out for a break and had given a co-worker her user ID and password, the claimant may have used poor judgment on October 27 when she did not immediately report these incidents to the manager on duty. But when the claimant went to work on Monday October 29, she told Rosowski what had happened on Saturday, October 27. Even though the claimant violated the employer's policy about giving anyone else her user ID and password, the claimant changed both when she returned from her break. The claimant violated the policy by providing confidential information to a co-worker but she did this so a co-worker could close her computer so customers would not be directed to the claimant when she was out of the office. On October 27, the claimant did not intentionally disregard the employer's interests. The evidence does not establish that she committed work-connected misconduct. As of January 13, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's February 21, 2013 determination (reference 02) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of January 13, 2013, 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/css