

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY M BEEBE
Claimant

APPEAL NO. 08A-UI-01883-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

**OC: 01/20/08 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Stream International, Inc. filed an appeal from a representative's decision dated February 13, 2008, reference 01, which held that no disqualification would be imposed regarding Ashley Beebe's separation from employment. After due notice was issued, a hearing was held by telephone on March 11, 2008. Ms. Beebe participated personally. The employer participated by Jacqueline Kurtz, Human Resources Recruiter. Exhibits 1 through 11 were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Beebe was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Beebe was employed by Stream International, Inc. from November 6, 2006 until January 15, 2008 as a full-time customer service representative. She was discharged because of her attendance.

Ms. Beebe was late reporting to work on February 1, February 26, and March 2, 2007. She was absent due to transportation issues on February 18, April 8 and 9, and June 27, 2007. Her final tardiness was on January 1, 2008. Ms. Beebe's remaining absences in 2007 were due to her own illness, the illness of a child, or were excused by the employer. She received warnings about her attendance on February 15, February 27, March 12, April 11, June 28, and July 6, 2007. She also received warnings on January 2 and January 8, 2008.

The final absence that prompted Ms. Beebe's discharge occurred on January 12, 2008. She reported to work on time and spoke to a supervisor on duty. She explained that the grandmother of her children's father was hospitalized and she wanted to go to the hospital. The supervisor led Ms. Beebe to believe that the absence would be excused. Ms. Beebe went from work to the local hospital where the grandmother was and later went to Omaha, Nebraska, when the grandmother was transferred to Creighton University Hospital. The grandmother

subsequently died on January 13. Ms. Beebe was notified of her discharge on January 15, 2008. Attendance was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if she was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. There must be a current period of unexcused absenteeism to support a disqualification from benefits. See 871 IAC 24.32(8).

The final absence that triggered Ms. Beebe's discharge was that of January 12, 2008. She did not simply call in to report the absence; she came in and spoke to a supervisor about the situation involving her children's great-grandmother's hospitalization. She had a good-faith belief that the supervisor authorized her absence from work. For the above reasons, the absence is considered excused and is not, therefore, an act of misconduct.

The last period of unexcused absenteeism on Ms. Beebe's record is the tardiness of January 1, 2008. However, this period of absence was two weeks prior to her separation. As such, it did not represent a current act in relation to the discharge date. Therefore, it cannot form the basis of a disqualification from benefits. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated February 13, 2008, reference 01, is hereby affirmed. Ms. Beebe was discharged by Stream International, Inc. but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs