

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER J FUDE
Claimant

APPEAL NO: 13A-UI-08788-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 06/23/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 29, 2013 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Scott Putney, a team manager, and Bangone Chanthavong, a human resource generalist, appeared on the employer's behalf. During the hearing Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is 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 January 2013. He worked as a full-time customer support professional. The claimant took in-bound calls for a client who required the claimant and other employees to use a script of precise prepared language while talking to customers. The tool the claimant was required to use was the IAD tool and had to be read verbatim.

On June 18, 2013, the claimant received a final written warning for failing to use the IAD tool as a call flow guideline and reciting verbatim the scripted information to a customer. The claimant received the June 18 warning after a quality control reviewed a June 9 call and discovered he had not read verbatim the information on the IAD. The June 18 warning informed the claimant that failure to read the information verbatim could result in further counseling or his discharge. (Employer Exhibit Two.)

On June 19, as the result of a random check, the employer discovered the claimant had not read verbatim the scripted words the client required. Since the claimant had just received his final written warning, the employer discharged the claimant on June 20, 2013. (Employer Exhibit One.)

The claimant tried to use the IAD tool on every call, but sometimes, he had problems pulling it up on his computer screen. At one point, the employer gave employees a laminated copy of the scripted information.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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 evidence indicates the claimant tried to use the scripted words, but at times had problems pulling up this information on his computer screen. Since the employer provided a laminated copy of the scripted words, the evidence suggests the claimant was not the only employee having problems using the IAC tool on his computer. Even when the claimant used the IAD tool, he admitted there may have been times he missed a word. The evidence does not establish that the claimant intentionally failed to read verbatim the scripted information the client required.

The employer established business reasons for discharging the claimant. Since the claimant had problems using the IAD, but tried to read the exact scripted words, he did not commit work-connected misconduct. As of June 23, 2013, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's July 29, 2013 determination (reference 02) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of June 23, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css