

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASHLEY N RIEDY**  
Claimant

**APPEAL NO. 13A-UI-12757-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STREAM INTERNATIONAL INC**  
Employer

**OC: 10/06/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 12, 2013, (reference 03) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on December 9, 2013. Claimant participated. Employer did participate through Bangone Chantavong, Human Resources Generalist and Samantha Edge, Team Leader. Employer's Exhibits One through Nine were entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job connected misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a customer support professional beginning on August 27, 2012 through October 10, 2013 when she was discharged. On October 8 a regular report revealed that the claimant had at least 12 to 15 short calls during the week. Ms. Edge listened to the calls and discovered that the claimant was transferring some callers back into the automated system because she allegedly did not have a password that would let her into the system she needed to access in order to assist customers. Any employee who finds themselves unable to handle a customer's question is to immediately notify a supervisor. The claimant had prior warnings for improperly transferring customer calls. It was the claimant's responsibility to notify a supervisor if she could not access a system in order to get her password reset. Despite the claimant's statement to the contrary there was always a supervisor or manager working when she was that she could have gone to for assistance. For at least three days the claimant just transferred callers back into the automated system and did not ask to have her password reset. When the claimant was questioned on October 10 she initially told the employer that all of her passwords worked. She had just transferred calls for the last three days because allegedly her password did not work. When the employer confronted her further she then indicated she had been transferring calls because her password would not work. The claimant owed her employer honesty in her dealing with them. On June 4, 2013 the claimant was given a final written warning about improperly transferring calls. She was put on notice that further improper transfers would lead to her discharge.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. EAB*, 531 N.W.2d 645 (Iowa App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant knew how to properly transfer calls and knew or should have known how to get her password reset. The claimant simply did not want to handle some of the calls, so she improperly transferred the customer back into the automated system. The claimant had a final warning for the same or similar behavior. The claimant's actions are conduct not in the employer's best interests and amount to substantial misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The November 12, 2013, (reference 03) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs