

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JAMES E BELL
438 – 52ND ST
MOLINE IL 61265**

**GLOBAL LINK INC
777 N 1ST ST STE 430
SAN JOSE CA 95112**

**Appeal Number: 05A-UI-03373-CT
OC: 02/20/05 R: 04
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Global Link, Inc. filed an appeal from a representative's decision dated March 22, 2005, reference 01, which held that no disqualification would be imposed regarding James Bell's separation from employment. After due notice was issued, a hearing was held by telephone on April 20, 2005. Mr. Bell participated personally and offered additional testimony from Andrea King and Myrna Lloyd. The employer participated by Sandra Peterson, President; Patrick Mason, Manager; and Cindy Gilliland, Administrative Assistant. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Bell was employed by Global Link, Inc. from June 6, 1999 until

February 22, 2005. He was last employed full time as call center manager, a position he had held for approximately four years. Mr. Bell was suspended on February 18 because of an incident that occurred on February 17, 2005. Mr. Bell was in his office on a conference call with Patrick Mason and Sandra Peterson discussing employee performance on February 17. Mr. Bell became upset when Ms. Peterson asked Mr. Mason, a relatively new employee, for his opinion of an employee. Because he was upset, Mr. Bell took a "time out" and left the room. When he returned, he continued his participation in the conference call. He was not sitting at his desk but stood approximately four feet from where the telephone was. When the conversation between Mr. Bell and Ms. Peterson became heated, Mr. Mason left the room.

After Mr. Mason left, Mr. Bell continued to argue with Ms. Peterson. He felt she had belittled him in Mr. Mason's presence. Although his voice was raised, he was not screaming at the top of his lungs as contended by the employer. Mr. Mason was in his office approximately 25 feet away and did not hear any screaming from Mr. Bell's office. Ms. Peterson felt Mr. Bell was being insubordinate and hung up on him. He was suspended the following day and notified of his discharge on February 22, 2005. He had previously received a warning on February 2, 2005 when he raised his voice in speaking with Ms. Peterson over the telephone.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Bell was separated from employment for any disqualifying reason. 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). Mr. Bell was discharged as a result of the argument with Ms. Peterson on February 17. It is unreasonable to expect employees to be docile and well-mannered at all times. Although Mr. Bell had his voice raised during the conversation, he was not screaming. If he had been screaming, the administrative law judge presumes that others in his office area would have overheard the screams. It appears that Mr. Bell had his voice raised because he was not standing or sitting near the telephone speaker. The argument did not involve any profanity or name-calling. The argument did not take place in the presence of other employees so as to undermine Ms. Peterson's authority.

Although the evidence established that Mr. Bell was an argumentative employee, it does not establish that he intended to harm the employer's interests. His loud, vocal disagreement with his supervisor is not sufficient to establish substantial misconduct. While the employer may have had good cause to discharge, conduct which might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated March 22, 2005, reference 01, is hereby affirmed. Mr. Bell was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/sc