

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI TESKA

Claimant

APPEAL NO: 09A-UI-18010-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC

Employer

OC: 09-20-09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 25, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 21, 2009. The claimant participated in the hearing with former lead representative Lisa Alderman. Stacey Albert, Human Resources Generalist and Sacha Williams, Team Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One through Seven were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer service professional for Stream International from October 23, 2006 to September 24, 2009. The claimant's account involved Sirius radio and her job was to retain customers calling in to cancel their service. The employer had several discussions with the claimant about handling customers on the phone, answering calls in a timely manner, and limiting dead air time while improving her attitude and not being rude to customers (Employer's Exhibit One). They also had conversations about her quality scores and told her she need to sound more enthusiastic and upbeat and like she was involved in the call rather than sounding "monotonous and boring (Employer's Exhibit One). Despite those conversations the problems persisted. On August 4, 2009, the claimant received a behavior written warning for inappropriate behavior in call handling and customer treatment. (Employer's Exhibit Two). The warning cited her "rude tone and demeanor on the phone with our customers (Employer's Exhibit Two). It stated it was "important that you are empathetic, apologetic and polite in an attempt to win back their service (Employer's Exhibit Two). In several calls the employer listened to it was found the claimant "portrayed no vibe, you were not listening to the customers' needs, (kept asking customer to repeat themselves and confusing the customer), speech was slurred and attention was disengaged. There is excessive dead air and you were not helpful. (Employer's Exhibit Two). She was also instructed to offer new and innovative solutions, pricing plans and subscriber information in an attempt to prevent the customer to

refrain from cancelling their services (Employer's Exhibit Two). The warning continued, "Additionally, you need to allow the customer to vent and refrain from interrupting them. It is your job to be understanding and have genuine concern with the reasons why they wish to cancel their service" (Employer's Exhibit Two). The claimant signed the warning. She received a quality score of 55 percent on a random quality control screening August 17, 2009 (Employer's Exhibit Three). On August 17, 2009, the claimant received a behavior final warning after the employer held several documented discussions with her about inappropriate customer treatment (Employer's Exhibit Four). On a recent call pulled for calibration it was observed that the claimant had dead air from 2:51 minutes into the call until 4:08 minutes (Employer's Exhibit Four). "There was a long and noticeable silence while Lori cancelled the service" (Employer's Exhibit Four). The employer also expected the claimant to "establish a rapport and reinforce a positive image of the company" (Employer's Exhibit Four). "...it is important that you are empathetic, apologetic and polite in an attempt to win back their service. It is important to have vibe on every call. It is your job responsibility to offer 2 save attempts, new and innovative solutions to problems, challenges, pricing plans and subscriber information in an effort for the customer to not cancel their services...Each call must be handled as if it was your 1st and each call must be handled with respect and a desire to win back their business" (Employer's Exhibit Four). The claimant received quality scores of 0.0 percent out of an expected 85 percent on a call August 14, 2009; 70.0 percent on September 18, 2009; and 70.0 percent September 23, 2009 (Employer's Five). On September 24, 2009, the claimant received a behavior termination for failing to improve her call-handling behaviors. The employer had given the claimant opportunities to listen to some of her calls with low scores and she agreed she needed to limit her dead air time and "refrain from having an attitude with the customer" (Employer's Exhibit Six). During another call the employer told the claimant she needed to sound more "upbeat and enthusiastic" because she sounded "very boring" (Employer's Exhibit Six). "Additional notes state Lori should have delivered a willingness to assist the customer and express empathy and limit her dead air. Because you are a Support Professional handling calls in our retention queue, it is important that you are empathetic, apologetic and polite in an attempt to win back their service. It is important to have vibe on every call" (Employer's Exhibit Six). The employer terminated the claimant's employment.

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 claimant was warned verbally and in writing on several occasions about her phone demeanor but despite the warnings she failed to improve her customer service. As a customer support professional she had a duty to the customer, Sirius, and the employer, to greet the customers enthusiastically and in a timely manner, and treat them politely and with empathy and to be apologetic in trying to retain them as customers. Additionally, she failed to limit her dead air time, spoke in a monotone, was "boring" and often had an attitude when speaking with customers. She did not show a willingness to help customers and did not reinforce a positive image of the company. She did not demonstrate any desire to change her behavior to meet the expectations of her position. The administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The November 25, 2009, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs