

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KASANDRA A POECKES
Claimant

APPEAL NO. 12A-UI-09822-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 07/08/1
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Kasandra Poeckes, filed an appeal from a decision dated August 6, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on September 6, 2012. The claimant participated on her own behalf. The employer, Stream International, participated by Human Resources Generalist Sharon Robertson and Team Manager Brian Aman.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Kasandra Poeckes was employed by Stream International from November 12, 2007 until June 12, 2012 as a full-time customer support professional. At the time of hire she received a copy of the employee handbook which sets out the attendance policy. Employees may be discharged after accumulating eight attendance points in a rolling 12-month period.

On June 8, 2012, the claimant came to work and asked Team Manager Lisa Foreman for the day off. She had to take her 21-year-old son to a doctor's appointment because he could not drive. Ms. Foreman informed her that she would have to have a doctor's note verifying the appointment to excuse the absence. Then she was issued a final written warning to notify her she had accumulated seven points as of that date.

Ms. Poeckes took her son to the doctor's office that day where he met his supervisor in the parking lot. He said he was to be seen for a work-related injury. The claimant informed her son she had to have a note from the doctor verifying the appointment. She picked him up an hour or so later but did not ask for the doctor's note. She drove home where he lived with her. He spent the next three hours in his room then came out and gave her a note which he said was from the doctor. Ms. Poeckes maintains she did not look at the note until she returned to work on Monday, June 11, 2012, and gave it to the employer.

The employer felt the note looked suspicious because it did not have a printed letterhead with the name and address of the clinic. It was a blank piece of paper with the name of the clinic and the address typed on it. The employer contacted the doctor's office. The office confirmed the claimant's son had not been seen by anyone on staff on June 8, 2012, and the signature on the note did not match the signature of anyone on staff. Ms. Poeckes was confronted about the matter and asked if she had a valid doctor's note and she did not. She was discharged for an unexcused absence which had put her point total at eight.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The claimant was discharged for unexcused absenteeism and for providing a forged doctor's excuse to the employer. Although Ms. Poeckes maintains she had no idea it was forged, her testimony reveals she did not take responsibility for making sure she had a valid excuse for the absence.

The administrative law judge finds it curious that the claimant did not make sure her son had a doctor's excuse when she picked him up or that he spent three hours in his room before coming and only then providing the note. It is also doubtful Ms. Poeckes did not even look at the note until she handed it in to the employer. The size of the note itself would have been suspicious and she acknowledged she knew what a valid doctor's note customarily looked like.

It can only be surmised the claimant did have substantial doubts about the validity of the doctor's note but decided to present it anyway and hope for the best. There were too many suspicious elements to the incident not to have triggered doubts in a reasonable person.

The claimant's presentation of a falsified note is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of August 6, 2012, reference 01, is affirmed. Kasandra Poeckes is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css