

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARA M TERRIQUEZ**  
Claimant

**APPEAL NO: 13A-UI-02529-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STREAM INTERNATIONAL INC**  
Employer

**OC: 01/20/13**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's February 20, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account exempt from charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Sharon Robertson, a senior human resource generalist, appeared on the employer's behalf. Tony Beck and Danielle Hernandez were present, but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

In July 2012, the claimant started working full time for the employer as a customer support professional. The claimant received a copy of the employer's attendance policy. The attendance policy informs employees the employer expects 100 percent attendance when employees are in training. Also, when an employee accumulates eight attendance points, they can be discharged.

The claimant received a final written warning after she was absent on December 20, 2012, for attendance issues. The claimant had 7.5 attendance points after she was absent on December 20. The claimant had not reported to work on December 20 because her son was hospitalized. The claimant was not worried about her employment when she received the final written warning because she knew some of her attendance points would be rolling off.

The claimant started working at 8 a.m. On January 24 and 25, the claimant was scheduled to attend training that started at 7 a.m. The claimant informed the employer she would have problems getting to work on time for the 7 a.m. training, because her child's daycare did not open until 7 a.m. The claimant understood the employer would work with her on her daycare situation. The daycare is about ten minutes from work.

On January 24, 2013, the claimant took her child to daycare by 7 a.m. She was about ten minutes late for the training. Since 0.50 attendance had dropped off, the employer considered the claimant late, but she still had only accumulated 7.50 attendance points.

On January 24, the claimant made arrangements with the daycare employee to open the daycare earlier so the claimant would not be late for work. The claimant arrived at the daycare before 7 a.m., but the daycare employee arrived late or after 7 a.m. that day. That morning the daycare employee had problems with her own child which made the daycare employee late. When the daycare provided arrived late, the claimant asked why the employee was late after the claimant made arrangements the day before to bring her child to daycare early that day. As a result of questioning the daycare employee, the claimant was 25 minutes late for work on January 25. The employer gave her 0.50 attendance points for reporting to the training late. As a result of reporting to work late on January 25, the claimant had accumulated eight attendance points. The employer discharged the claimant on January 25, 2013, for violating the employer's attendance policy.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The evidence indicates the employer excused many of the claimant's absences. A total of 1.5 attendance points the claimant received on October 7, 2012 and December 7 occurred because she was late or tardy for work. The half point she received on November 10 occurred when she left work early for a doctor's appointment. On December 20, the claimant was absent because her son was in the hospital.

The final half attendance point the claimant received on January 25 was beyond her control. The claimant made arrangements for a daycare employee to open the daycare that the claimant took her child to early so she would not be late for work on January 25. Unfortunately, the daycare employee was late on January 25 and the claimant used poor judgment in taking time to question the daycare employee about being late. As a result of a combination of factors, the claimant was 25 minutes late for her training on January 25. The half point she received on January meant she had accumulated eight points.

Since the claimant violated the employer's attendance policy, the employer had business reasons to discharge her. The claimant did not intentionally disregard the employer's interests. She attempted to be at work on time by making previous arrangements to take her child to daycare early so she would not be late for work on January 25. Unfortunately, the daycare employee was late for work which in turn meant the claimant was late for her training. Under the facts in this case, the claimant did not commit work-connected misconduct. As of January 20, 2013, the claimant is qualified to receive benefits.

**DECISION:**

The representative's February 20, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of January 20, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs