

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE N BODE
Claimant

APPEAL NO. 07A-UI-10773-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

**OC: 10-07-07 R: 01
Claimant: Respondent (4)**

Section 96.5-2-a – Discharge/Misconduct/Requalification

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 15, 2007, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on December 10, 2007. The claimant did participate. The employer did participate through (representative) Jacquelyn Kurtz, Human Resources Recruiter and Tiffany O'Neil, Team Manager. Employer's Exhibit One was received.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a customer service representative full time beginning December 4, 2006 through July 2, 2007 when he was discharged.

Since his discharge from Stream International on July 2, 2007 the claimant has requalified for benefits by working for Arctic Ice and earning approximately \$2,450.00 between July 2007 and October 2007.

The claimant called in absent on June 29, 2007 but did not properly report his absence because he did not call his team manager, Tiffany O'Neil. The claimant had been notified on June 25 that Ms. O'Neil would become his team manager. The claimant's previous team manager, Autumn Danielson, did not have a call from the claimant on her voice mail. The claimant knew that to properly report his absence he was required to call both the absent line and his team manager directly.

The claimant was rehired by Stream International Inc. on October 29, 2007 and remains employed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for reasons related to job 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 did not properly report his absence by calling both his team manager and the absent line. The administrative law judge is not persuaded that the claimant did not know that Ms. O'Neil was to be his manager. The claimant did not call Ms. Danielson on her voice mail. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The November 15, 2007, reference 02, decision is modified in favor of the appellant. The claimant was discharged from employment for reasons related to job misconduct, but has

requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (318766) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css