

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

OLA K TOMLINSON
210 CENTRAL
ESSEX IA 51638

MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 05A-UI-12036-DWT
OC: 10/30/05 R: 01
Claimant: Respondent (1/R)

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

STATEMENT OF THE CASE:

Manpower Temporary Services (employer) appealed a representative's November 18, 2005 decision (reference 01) that concluded Ola K. Tomlinson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 13, 2005. The claimant participated in the hearing. Todd Aschenfelter, a staffing specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant registered to work with the employer in October 1999. The employer assigned the claimant to a job at Eaton on September 23, 2005. After the claimant made one mistake at work, Eaton asked the employer to remove her from this assignment. This employer removed the claimant from this assignment on October 26, 2005. Even though the employer removed the claimant from this assignment, she was still eligible to be assigned to jobs. The employer assigned the claimant to another job on November 7, 2005.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer acknowledged the claimant did not commit work-connected misconduct at the Eaton job assignment. The assignment ended because Eaton management was not satisfied with the claimant's work performance. Therefore, as of October 30, 2005, the claimant is qualified to receive unemployment insurance benefits.

During the hearing, the employer wanted to discuss the claimant's next job assignment that ended on November 9, 2005. The claimant did not agree to address this employment separation because the Claims Section had not yet addressed this separation. The reasons for the claimant's separation on November 9 for an assignment the employer gave her on November 7, 2005 is remanded to the Claims Section to investigate and issue a written decision.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representatives' November 18, 2005 decision (reference 01) is affirmed. The employer removed the claimant from a job assignment on October 26, 2005, for reasons that do not constitute work-connected misconduct. As of October 30, 2005, the claimant is qualified to receive unemployment insurance benefits. During the claimant's current benefit year, the employer's will not be charged. The issue of an employment separation on November 9, 2005, involving a job the employer assigned to the claimant on November 7, 2005, is remanded to the Claims Section to investigate and issue a written decision.

dlw/pjs