

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN E DAUGHTERS
Claimant

APPEAL NO. 09A-UI-18266-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER TEMPORARY SERVICES
Employer

**Original Claim: 10/25/09
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Manpower Temporary Services filed an appeal from a representative's decision dated November 25, 2009, reference 01, which held that no disqualification would be imposed regarding Steven Daughters' separation from employment. After due notice was issued, a hearing was held by telephone on January 14, 2010. Mr. Daughters participated personally. The employer participated by Lori Sander, Staffing Specialist.

ISSUE:

At issue in this matter is whether Mr. Daughters was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Daughters was employed through Manpower from August 11, 2008 until October 27, 2009. He was assigned to work full-time for Winegard Company. He was removed from the assignment and discharged by Manpower based on an allegation that he threatened a coworker.

Mr. Daughters and a coworker, Josh Collins, became involved in a heated argument shortly after arriving at work on October 27. During the argument, Mr. Daughters stated, "I'd like to kick your ass." The statement was not unlike comments the two had made to each other during prior disagreements. Mr. Collins reported the statement on October 27 and, as a result, Mr. Daughters was discharged. The above incident was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer alleged that Mr. Daughters threatened Mr. Collins. It is

unreasonable to expect employees to be docile and well-mannered at all times. There can be a thin line between threatening someone and simply “blowing off steam.”

There was no evidence that there had ever been any physical altercations between Mr. Daughters and Mr. Collins. Mr. Daughters’ uncontroverted testimony was that the exchange on October 27 was no different than other arguments the two had been involved in with each other. Although it is a minor factor, Mr. Daughters only indicated what he would like to do to Mr. Collins, not what he intended to do. For the above reasons, the administrative law judge concludes that Mr. Daughters did not threaten Mr. Collins on October 27, only vented his frustration.

It was well within Manpower’s prerogative to discharge Mr. Daughters. However, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative’s decision dated November 25, 2009, reference 01, is hereby affirmed. Mr. Daughters was discharged by Manpower on October 27, 2009, but disqualifying misconduct has not been established. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw