

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDI J MILLER**  
Claimant

**APPEAL NO. 08A-UI-10480-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF CEDAR RAPIDS  
GAVIN ENTERPRISES**  
Employer

**OC: 10/05/08 R: 04**  
**Claimant: Respondent (4)**

Section 96.7-2-a(2) – Charges to Employer's Account

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 4, 2008, reference 01, that concluded the claimant was laid off due to lack of work and the employer's account was subject to charge. A telephone hearing was held on November 24, 2008. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Deb Chamberlain participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant laid off her job with the employer?

Is the employer's account chargeable for benefits paid to the claimant?

**FINDINGS OF FACT:**

The claimant worked for the employer, Manpower Inc. of Cedar Rapids, a temporary employment company, from October 15, 2007, to June 20, 2008. Effective June 20, 2008, the employer sold part of its business to Manpower Temporary Services. The claimant continued working for Manpower Temporary Services. The employer, Manpower Inc. of Cedar Rapids, retained its unemployment account, 41033, and continues to operate a business under the name Gavin Enterprises from its place of business at 1220 Industrial Avenue, Hiawatha, Iowa. There is no evidence of any partial transfer of experience to Manpower Temporary Services, which has its own unemployment account 265624.

**REASONING AND CONCLUSIONS OF LAW:**

The laws that apply to this case is set forth below.

Iowa Code § 96.7-2-a(2) provides that the amount of benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred unless the individual is still employed by a base period employer at the time the individual is receiving the benefits and is receiving the

same employment from the employer that the individual received during the individual's base period or the individual has been discharged for work-connected misconduct or voluntarily quit employment without good cause attributable to the employer or refused suitable work without good cause.

Iowa Code § 96.7-2-b states that if a business or a part of a business is sold to another employing unit and the successor employer continues to operate the business, the successor employer shall assume the position of the predecessor employer with respect to the predecessors' payrolls, contributions, accounts, and contribution rates to the same extent as if no change had taken place in the ownership or control of the enterprise or business.

Finally, 871 IAC 23.43(14) provides that benefits based on wages earned with a transferring employer paid to a person who worked in and was paid wages for work with the acquiring employer shall be transferred to the balancing account and the transferring employer shall be relieved from charges. The title of this rule states that it applies to the sale of part of an employer's business where the acquiring employer does not receive a partial transfer of experience.

The preponderance of the evidence shows there was a sale of part of the business and no partial transfer of experience occurred. The claimant continued working for the acquiring employer, Manpower Temporary Services. Therefore, Manpower Inc. of Cedar Rapids' account 41033 would be relieved from charges under 871 IAC 23.43(14) and any benefits paid based on wages paid by Manpower Inc. of Cedar Rapids would be charged to the balancing account.

Since the claimant's separation from Manpower Inc. of Cedar Rapids was not a voluntarily quit or discharge for misconduct, she is not disqualified based on that separation from employment.

**DECISION:**

The unemployment insurance decision dated November 4, 2008, reference 01, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits based on her separation from the employer, if she is otherwise eligible. The employer's account will be relieved from benefits charges.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw