

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YUEL L HARPER
Claimant

APPEAL NO: 09A-UI-00587-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

**OC: 12/21/08 R: 03
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Yuel L. Harper (claimant) appealed a representative's January 12, 2009 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of Cambridge Tempositions, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 30, 2009. The claimant participated in the hearing. Darlene Hughes, an account manager, 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 first registered to work for the employer on April 19, 2001. The employer is a temporary employment firm. The employer most recently assigned the claimant to a job on October 7, 2008. The claimant did not complete this assignment, but was removed by the client on December 3, 2008.

The employer's client contacted the employer on December 3 and told the employer to remove the claimant from the job assignment immediately. The claimant and one of the client's employees engaged in a verbal confrontation that day. The claimant became upset after the employee made a comment the claimant considered racially derogatory. When Hughes told the claimant his assignment was over, the claimant was upset because he liked working at that job. The employer would have assigned the claimant to another job, but the employer did not have another job to assign to him.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-

a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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 established compelling business reasons for ending an assignment or discharging the claimant from an assignment. The employer's client would not allow the claimant to continue working at its facility. The claimant's testimony as to what occurred on December 3 is credible and must be given more weight than the employer's reliance on hearsay information. As a result, the facts do not establish that the claimant committed work-connected misconduct. The fact the employer would have assigned the claimant to another job if the employer had another job, further supports the conclusion that the claimant did not commit work-connected misconduct. As of December 21, 2008, the claimant is qualified to receive benefits.

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 representative's January 12, 2009 decision (reference 01) is reversed. The employer ended or discharged the claimant from an assignment on December 3, 2008. The employer had business reasons for discharging the claimant. These reasons do not constitute work-connected misconduct. As of December 21, 2008, the claimant is qualified to receive benefits. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs