

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

DONALD G BENEDICT
2825 – 230TH ST
HAMBURG IA 51640

MANPOWER INTERNATIONAL INC
C/O TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 05A-UI-02793-DWT
OC: 02/06/05 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 International, Inc. (employer) appealed a representative's March 9, 2005 decision (reference 01) that concluded Donald G. Benedict (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer discharged the claimant for reasons that do not constitute work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 5, 2005. The claimant participated in the hearing. Todd Ashenfelter, a staffing accountant, 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 for the employer's business clients on December 31, 1998. The employer is a temporary staffing agency. On May 21, 2004, the employer assigned the claimant to work at Eaton Corporation.

On August 14, 2004, the employer told the claimant he would be discharged the next time he failed contact the employer when he was unable to work as scheduled. On February 6, 2005, the claimant reported to work as scheduled at 11:00 p.m. Between 12:30 and 1:00 a.m., the claimant left the employer's facility and drove his vehicle to a friend who lived five miles away. The claimant's vehicle had some electrical problems and his friend thought he could fix the car in a short time. On the way to see his friend, the claimant's vehicle displayed some sparks and then stopped. The claimant could not get his vehicle started again. The claimant stayed with his vehicle in an attempt to get it started. Although the claimant planned to be back on time from his lunch break, he was stranded and was unable to return to work after his car lost all electrical power. The claimant did not possess a cell phone and could not contact anyone. After it became daylight, the claimant's friend found the claimant and took him back to the employer's facility. The employer had the claimant go home to get some sleep.

On February 7 or 8, Eaton Corporation informed the employer that the claimant's assignment at its facility was over because for the second time the claimant failed to contact any one to let the employer know he was unable to work as scheduled. The claimant established a claim for unemployment insurance benefits during the week of February 6, 2005. The claimant contacted the employer within a few days to see if the employer had another job to assign to the claimant.

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 §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 claimant's job assignment ended at Eaton Corporation for compelling business reasons. The evidence does not establish that the claimant intentionally failed to return to work after his lunch break the morning of February 7, 2005. Instead, the claimant was unable to return to work because of unforeseen problems with his vehicle. The claimant did not commit work-connected misconduct. Therefore, the reasons for his separation from Eaton Corporation do not disqualify the claimant from receiving unemployment insurance benefits.

Based on the evidence presented during the hearing, it appears there is an issue of whether the claimant refused an offer of work with or without good cause. This issue is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's March 9, 2005 decision (reference 01) is affirmed. The employer discharged the claimant from the Eaton Corporation assignment for business reasons that do not constitute work-connected misconduct. As of February 6, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant. An issue of whether the claimant refused an offer of work with or without good cause is remanded to the Claims Section to investigate and issue a written decision.

dlw/pjs