

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICK D JANES

Claimant

APPEAL NO. 08A-UI-09589-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

**OC: 09/07/08 R: 04
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 8, 2008, reference 03, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 4, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Carrie Hale participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked for the employer on an assignment as an assembler at Weingard Company from December 17, 2007, to August 19, 2008. He was discharged by the employer for excessive absenteeism after he left work early due to legitimate illness with permission from a supervisor. He had previously missed work due to medical reasons with notice to the employer on February 18, May 28, June 30-July 2, July 15, and August 4. When the employer's on-site supervisor informed the claimant that he was discharged, he was told that the employer would call him if it had any work for him. Relying on this, the claimant waited for over a week, and when he did not receive a call, he called the employer but there was no work available.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. He was absent due to legitimate illness and properly notified the employer.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements. The claimant is not subject to disqualification under Iowa Code § 96.5-1-j, because he relied on his supervisor's statement that he would be called if there was work available for him.

DECISION:

The unemployment insurance decision dated October 8, 2008, reference 03, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw