

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM JENSEN**  
Claimant

**APPEAL NO: 11A-UI-09216-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF D M**  
Employer

**OC: 05/22/11  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

William Jensen (claimant) appealed an unemployment insurance decision dated July 6, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Manpower Inc. of Des Moines (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 4, 2011. The claimant participated in the hearing. The employer participated through Katie Olson, Staffing Specialist. 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:**

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer's attendance policy provides that an employee will be terminated if they fail to call or report to work. The claimant was hired as a temporary production worker on January 17, 2011 and he worked through May 27, 2011 when he was discharged. He was a no-call/no-show on both May 26, 2011 and May 27, 2011. The employer contacted him and asked him why he had not called or reported to work and the claimant said that he had transportation problems. The claimant said that he called the production supervisor of the plant where he was working but there is no evidence of that and he was advised he had to call both the client and the employer if he was going to be absent.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has

discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

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 claimant was discharged on May 27, 2011 after he failed to call or report to work for two consecutive work days. Two consecutive no-call/no-show absences can constitute job misconduct. *Boehm v. IDJS*, (Unpublished, Iowa App. 1986). The employer's policy advises its employees that they will be terminated after one no-call/no-show. The claimant could not offer a reasonable expectation why he did not contact the employer. The employer met its burden. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated July 6, 2011, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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