

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

KEVIN C ANDERSON
214 ADAM ST
WEST UNION IA 52175

MANPOWER INC OF CEDAR RAPIDS – 96
1220 INDUSTRIAL AVE
HIAWATHA IA 52233

Appeal Number: 04A-UI-06508-DWT
OC: 12/07/03 R: 04
Claimant: Respondent (2)

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 are 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 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Manpower Inc. of Cedar Rapids – 96 (employer) appealed a representative's June 4, 2004 decision (reference 03) that concluded Kevin C Anderson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account could be charged because the claimant's separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 13, 2004. The claimant participated in the hearing. Chris Johnson, the branch 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.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer assigned the claimant a job at Cam Car. The claimant did not have a vehicle to drive 30-35 miles to work the night shift. The claimant made arrangements to ride to work with another person. The claimant's ride to work at Cam Car ended on May 6, 2004. Although there was continuing work available for the claimant to do at Cam Car, he did not return to work because he did not have a vehicle to get to work.

On May 7, the claimant's girlfriend contacted the employer to report that she and the claimant could no longer work at Cam Car because of transportation problems. The claimant's girlfriend asked if the employer had any work in the West Union area that she and the claimant could be assigned. The employer did not have any other work to assign the claimant.

The claimant reopened his claim for benefits during the week of May 9, 2004. He filed claims for the weeks ending May 15 through July 10, 2004. He received a total of \$2,017.00 in benefits during these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant initiated his separation at Cam Car as of May 7, 2004. Although the claimant could have continued to work at the Cam Car assignment, he did not. For unemployment insurance purposes, the claimant quit his Cam Car assignment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant has voluntarily quit without good cause when he quits because of lack of transportation to the job site unless the employer agreed to furnish transportation. 871 IAC 24.25(1). The only reason the claimant did not continue working at Cam Car was because he did not have a ride to work after May 6, 2004. While the employer may have known the claimant had transportation problems when the claimant accepted the assignment at Cam Car, the evidence does not establish the employer agreed to furnish transportation to the job site. The evidence also indicates the employer did not know the claimant was quitting until the day after he quit.

The claimant had compelling personal reasons for quitting work that was available at Cam Car. His reasons for quitting do not qualify him to receive unemployment insurance benefits. As of May 9, 2004, he is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits during

the weeks ending May 15 through July 10, 2004. He has been overpaid a total of \$2,017.00 in benefits.

DECISION:

The representative's June 4, 2004 decision (reference 03) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 9, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits during the weeks ending May 15 through July 10, 2004. The claimant has been overpaid a total of \$2,017.00 in benefits he received for these weeks.

dlw/kjf