

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS J HALL
Claimant

APPEAL NO. 08A-UI-08015-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**“MANPOWER INTERNATIONAL INC
“MANPOWER TEMPORARY SERVICES**
Employer

**OC: 09/16/07 R: 01
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated August 28, 2008, reference 06, which held claimant eligible for unemployment insurance benefits. After due notice a telephone conference hearing was scheduled for and held on September 23, 2008. Although duly notified the claimant did not participate. The employer participated by Todd Ashenfelter.

ISSUE:

The issue in this matter is whether the claimant was discharged for intentional misconduct in connection with his work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this temporary employer most recently from January 7, 2008 until June 19, 2008 when he was removed from the temporary assignment at NSK Corporation. Mr. Hall was employed as a production worker and was paid by the hour.

Although the claimant was removed from the most recent assignment, he was not discharged by Manpower International but instead was held to be assignable to other temporary job assignments. The employer was notified that the temporary assignment had ended by the temporary client and also notified Mr. Hall. The employer did not have any other assignments available for Mr. Hall at that time. Subsequently the claimant discontinued contacting Manpower International for additional assignments after he was laid off from his most recent assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was separated due to lack of work under non disqualifying conditions. The claimant in this case was removed from his most recent assignment through Manpower International but was not discharged from

future assignments with that temporary employment service. Although the claimant's attendance at the temporary client's location was not acceptable, he was not precluded from additional work through Manpower International.

Iowa Code section 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.

Iowa Code section 96.5-1-j provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

In this case the temporary employment service had notification of the end of the claimant's most recent assignment but did not have additional work for the claimant at that time although he was not discharged from additional assignments. The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. This requirement has been met in this case.

DECISION:

The representative's decision dated August 28, 2008, reference 06, is affirmed. The claimant was separated under non disqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs