

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

RODNEY W HANSON
402 S GEORGIA
JEFFERSON IA 50129

HELPING HANDS TEMPORARY
SERVICES INC
27 N CENTER ST
MARSHALLTOWN IA 50158

Appeal Number: 05A-UI-08649-DWT
OC: 07/24/05 R: 01
Claimant: Respondent (1)

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:

Helping Hands Temporary Services Inc. (employer) appealed a representative's August 12, 2005 decision (reference 01) that concluded Rodney W. Hanson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge 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 September 7, 2005. The claimant participated in the hearing. Arlene Wenzel, the owner/president, 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 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?

FINDINGS OF FACT:

The claimant registered to work for the employer in 2004. The employer provided temporary, casual employees to Barilla. The employer assigned the claimant to Barilla on July 11. The claimant worked as scheduled on July 11, 12, 15 and 16. On July 16, management at Barilla told the claimant to leave work early. A temporary employee also assigned to work at Barilla by another employment firm, reported that the claimant made a derogatory remark to him. Although the claimant denied the accusation, Barilla management asked the claimant to leave work early on July 16.

The claimant immediately contacted the employer about the situation at Barilla. The claimant's job assignment at Barilla was to have lasted until July 17. Barilla management told the employer the claimant was not to report back to work after July 16.

On July 18, 2005, the claimant again talked to the employer. The claimant denied he had made any derogatory comment to another person at Barilla. The claimant insisted the other person had not told the truth. The employer did not have another job to assign to the claimant on July 18. On July 22, 2005, the employer told the claimant about a potential job, which the claimant checked out. This potential employer did not have any work for the claimant. The claimant then established a claim for unemployment insurance benefits during the week of July 24, 2005.

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).

Although the claimant was initially scheduled to work at Barilla until July 17, Barilla management decided to end the claimant's job assignment on July 16. The claimant's testimony as to what happened on July 16 is credible. A preponderance of the evidence does not establish that the claimant made any derogatory remark to another temporary casual employee at Barilla on July 16, 2005. The claimant did not commit work-connected misconduct at Barilla.

The claimant immediately contacted the employer and informed the employer about the Barilla situation. The employer did not have another job to assign to the claimant. As of July 24, 2005, when the claimant established his claim for benefits, the employer did not have any work to assign to him. The facts establish that the claimant did not commit work-connected misconduct. As of July 24, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 12, 2005 decision (reference 01) is affirmed. The claimant's temporary assignment ended one day early for reasons that do not constitute work-connected misconduct. After the claimant's assignment ended, the employer did not have any work to assign him. As of July 16, the claimant became unemployed for reasons that do not constitute work-connected misconduct. As of July 24, 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.

dlw/tjc