

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

BRADEY M TELSCHOW

Claimant,

and

MANPOWER INTERNATIONAL INC

Employer.

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HEARING NUMBER: 13B-UI-12349

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES as to the separation, and REMANDED for the able and available issue** as set forth below.

FINDINGS OF FACT:

The Employment Appeal Board would adopt and incorporate as its own the administrative law judge's Findings of Fact.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)(a) (2009) provides:

An individual shall be disqualified for benefits: *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:

The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the Employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable Employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

The Claimant shall be eligible for benefits even though the Claimant voluntarily quit if the Claimant left for the sole purpose of accepting an offer of other or better employment, which the Claimant did accept, and from which the Claimant is separated, before or after having started the new employment. The Employer does not have to be covered employment and does not include self-employment.

The record establishes that the Claimant left one employment to accept employment with a different Employer within the meaning of the statute. The record is silent as to whether the Claimant was able and available for work during that one-month training time frame. For this reason, we must remand this matter for further consideration to answer this question.

DECISION:

The administrative law judge's decision dated November 13, 2012 is **REVERSED as to the separation; and REMANDED on the able and available issue.** The Employment Appeal Board concludes that the Claimant was eligible for benefits provided he is able and available for work, which is the issue on remand.

John A. Peno

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv