

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MANDY M HUMMEL
Claimant

APPEAL NO. 08A-UI-03921-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF D M
Employer

OC: 11/11/07 R: 03
Claimant: Appellant (2)

Section 96.5-2-a – Discharge
Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 17, 2008, reference 03, that concluded she was not able to work. A telephone hearing was held on May 6, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Jeanne Peale participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer from December 17, 2007, to March 14, 2008, on an assignment at Bunn-O-Matic that involved assembling and disassembling coffee makers. The job sometimes involved lifting over 25 pounds.

The claimant is pregnant. On about March 12, 2008, the claimant submitted to the employer a medical statement from her doctor that restricted the claimant from lifting over 25 pounds due to complications with her pregnancy. The claimant had no other restrictions. The employer allowed the claimant to work two days with the restrictions, but on March 14, 2008, the employer removed her from the assignment and informed her that she was eligible for rehire after her restrictions were lifted.

The claimant filed a claim for unemployment insurance benefits with an effective date of March 16, 2008. The claimant is able to work in a job that does not involve lifting over 25 pounds. She formerly worked as a factory worker running a machine and would have been able to perform this work with her restrictions. She has been seeking employment within her restrictions.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The claimant did not quit employment. The employer terminated her employment due to her medical restrictions. No misconduct was involved.

The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. The evidence establishes that the claimant was able to perform gainful work, just not work that requires heavy lifting. There is work available in the labor market meeting such restrictions that the claimant is qualified to perform, and the claimant has been actively looking for such work in compliance with the requirements of the law.

DECISION:

The unemployment insurance decision dated April 17, 2008, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw