

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROLANDO ALMENDAREZ
Claimant

APPEAL NO: 18A-UI-04824-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

**OC: 03/18/18
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct
Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 13, 2018, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 14, 2018. The claimant participated in the hearing. Liz Soukup, Staffing Specialist, participated in the hearing on behalf of the employer.

ISSUE:

The issues are whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

The claimant was employed as a full-time production technician for Manpower International, Inc. last assigned at Pioneer from October 16, 2017 to March 16, 2018. On March 16, 2018, the claimant contacted the employer and told her there had been an incident where he made a mistake and the supervisor became very angry and told him to get out and consequently the claimant believed the client was going to end the assignment. The claimant also told the employer he had a part-time job and she thought he was saying his last day on the assignment would be March 23, 2018, if the employer did not end the Pioneer assignment. The client subsequently emailed the employer and ended the assignment and the employer called the claimant back at home and told him she would try to find another position for him. The claimant tried to call the employer March 20 or March 21, 2018, to ask about another assignment but did not reach the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

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

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

The employer has not established misconduct on the part of the claimant as defined by Iowa law. The claimant completed the assignment. The remaining issue is whether the claimant sought reassignment from the employer. While the employer's policy requires employees to seek reassignment from the employer within three business days after the end of the assignment, the purpose of the statute is to provide notice to the temporary employment firm that the claimant is able and available for work. In this case, the claimant sought reassignment by asking the employer about additional assignments the day he learned his assignment was ending. There was a miscommunication between the parties as the employer understood the claimant to say he had another job beginning March 23, 2018. That job, however, was only part-time and the claimant needed full-time employment. Additionally, the claimant tried to call the employer March 20 or March 21, 2018, to ask for an additional assignment but was unable to reach the employer. Under these circumstances, the administrative law judge finds the claimant notified the employer he was seeking further assignment within three working days of the completion of his assignment. Therefore, benefits are allowed.

DECISION:

The April 13, 2018, reference 04, decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn