

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

LARRY H DE ANDA
1203 W SHERIDAN APT N
SHENANDOAH IA 51601

MANPOWER INTERNATIONAL INC
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166 6864

Appeal Number: 05A-UI-05370-DWT
OC: 04/24/05 R: 01
Claimant: Respondent (2)

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
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Manpower International, Inc. (employer) appealed a representative's May 13, 2005 decision (reference 02) that concluded Larry H. De Anda (claimant) would not be charged because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 9, 2005. The claimant participated in the hearing. Todd Ashenfelter, a staffing specialist, 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.

ISSUES:

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant completed the employer's employment application in early August 2004. On the job application the claimant indicated he had graduated from a high school in California. The employer assigned the claimant to a job at Eaton Corporation as a machinist.

Eaton Corporation requires all employees, including temporary employees, to have graduated from high school or have a GED. In December, Eaton Corporation asked for verification that the claimant had graduated from high school or had his GED. The claimant then informed the employer he had not graduated from high school and did not have his GED. On December 15, 2004, the employer discharged the claimant for falsifying his employment application.

The claimant established a claim for unemployment insurance benefits during the week of April 24, 2005. The claimant filed claims for the weeks ending April 30 through June 4, 2005. The claimant received his maximum weekly benefit amount of \$201.00 in benefits for each week.

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. 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).

The claimant falsified information on his job application. Since Eaton Corporation requires all employees, temporary and full-time employees, to have a GED or be a high school graduate, the claimant's failure to honestly report that he was not a high school graduate or possess a GED amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from employees. Even though Eaton Corporation may have wanted to hire the claimant as a full-time employee, the business could not because of its policies. The fact the employer did not know the claimant was not a high school graduate and still assigned him to a job at Eaton does not project a good image on the employer. The employer discharged the claimant for work-connected misconduct.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits during the weeks ending April 30 through June 4, 2005. The claimant has been overpaid a total of \$1,206.00 in benefits he received for these weeks.

DECISION:

The representative's May 13, 2005 decision (reference 02) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 24, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending April 30 through June 4, 2005. The claimant has been overpaid and must repay \$1,206.00 in benefits he received for these weeks.

dlw/kjf