

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN D OLSON
Claimant

APPEAL NO. 12A-UI-04333-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF D M
Employer

**OC: 06/19/11
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 10, 2012, reference 04, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on May 9, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Jennifer Hjortshoj participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked as a welder on an assignment at Vermeer Manufacturing from November 14, 2011, to February 13, 2012. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant and other workers were allowed to leave work early on December 23. He left work early on January 23 and February 9 with proper notice to management due to court appearances. On February 10, the claimant reported to work but was sent home by a supervisor because he was sick with the flu. He later provided a doctor's notice excusing him from working.

On February 13, 2012, the employer discharged the claimant for absenteeism and unsatisfactory welding.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. He missed work for legitimate reasons and properly notified his employer about his absences. Unsatisfactory work is not disqualifying misconduct.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated April 10, 2012, reference 04, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css