

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY MAHAN
Claimant

APPEAL NO. 13A-UI-12069-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

**OC: 12/23/12
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Terry Mahan (claimant) appealed an unemployment insurance decision dated October 23, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Manpower International, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2013. The claimant participated in the hearing. The employer participated through John Rich, Associate Recruiter and Staffing Specialist.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production operator for a car part manufacturer from April 6, 2012 through June 26, 2013. He was injured on the job and restricted to light duty so the employer assigned him to work at Goodwill. The claimant was terminated for time theft after he repeatedly failed to properly document his time records. The employer learned from the client that the claimant had only worked partial hours on August 5 and 6, 2013 and did not work at all on August 7, 2013. The claimant failed to report his absences to the employer but then reported on his time card that he worked 40 hours that week. The employer warned him three times to accurately report his time and it was only after the third warning that he did it properly. The claimant was discharged on August 14, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged for time theft and failure to properly report his absences. The employer had to tell him three times to accurately report his hours worked before the claimant reported his time properly. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated October 23, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css