

**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**

**BRANDON L FORD
1206 OSBORN
BURLINGTON IA 62601**

**MANPOWER INC OF CEDAR RAPIDS
1220 INDUSTRIAL AVE
HIAWATHA IA 52233-1155**

**Appeal Number: 04A-UI-03616-AT
OC: 02-22-04 R: 04
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 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Manpower, Inc. of Cedar Rapids filed a timely appeal from an unemployment insurance decision dated March 22, 2004 reference 02 which allowed benefits to Brandon L. Ford. After due notice was issued, a telephone hearing was held April 20, 2004. Risk Control Manager Debbie Chamberlain participated for the employer. Mr. Ford did not respond to the hearing notice.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Brandon L. Ford accepted an assignment from Manpower, Inc. of Cedar Rapids for work at Antennacraft on November 21, 2003. He knew when he accepted the assignment that a drug test was required. He did not report at the scheduled time of the drug test and he did not thereafter contact Manpower. When originally hired by Manpower, Mr. Ford was given a copy of a company policy explaining the procedure for drug testing for assignments at customers who may require them. Employees are notified in advance if a drug test is required. If they accept the assignment they are expected to report for the drug test and to notify Manpower within seven days of any complications.

Mr. Ford has received unemployment insurance benefits since filing a claim effective February 22, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Ford's separation was a disqualifying event. It was.

Iowa Code Section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

The administrative law judge characterizes the separation as a quit because Mr. Ford did not report to the drug test and also did not contact Manpower thereafter. Thus, the administrative law judge views the separation as a voluntary job abandonment. Benefits are withheld.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Mr. Ford has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated March 22, 2004 reference 02 is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$1,328.00.

sb/b