

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROY G GIDEON

Claimant

APPEAL NO. 07A-UI-00779-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER TEMPORARY SERVICES

Employer

**OC: 12/25/05 R: 01
Claimant: Respondent (1/R)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Manpower Temporary Services (employer) appealed a representative's January 12, 2007 decision (reference 02) that concluded Roy G. Gideon (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge 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 February 6, 2007. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. 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.

ISSUE:

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

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant started working various job assignments for the employer on October 7, 2002. Since March 4, 2005, the claimant has worked at one client. On December 12, 2006, the client asked the employer to end the claimant's assignment because the claimant was not following the client's work procedures. When the employer told the claimant his assignment was over as of December 12, 2006, the claimant was eligible to be assigned to another job.

The employer did not have any work to assign the claimant on December 12, 2006. The employer, however, reminded the claimant to keep in contact with the employer so when a job became available, the employer could assign the claimant another job. The claimant has not contacted the employer any time after December 12, 2006.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 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).

In this case, the claimant's employment relationship was not terminated, but the claimant became unemployed after a client requested he be removed from a job assignment. The facts do not establish that the claimant committed work-connected misconduct. As a result, the claimant is qualified to receive unemployment insurance benefits as of December 10, 2006.

The employer raised the issue of whether the claimant is able to and available for work since the claimant has not contacted the employer for another job assignment anytime after December 12, 2006, and the claimant is eligible to be assigned to another job. This issue is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's January 12, 2007 decision (reference 02) is affirmed. The claimant's employment separation occurred as the result of nondisqualifying reasons. Therefore, as of December 10, 2006, the claimant is qualified to receive unemployment insurance benefits. The employer's account may be charged for benefits paid to the claimant. An issue of whether the claimant is able to and available for work is remanded to the Claims Section because the claimant has not contacted the employer about another job assignment even though the employer told him to on December 12, 2006.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw