

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEAUTY L. FITTS
Claimant

APPEAL NO: 17A-UI-06274-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 05/07/17
Claimant: Appellant (2)

Section 96.5-2-a – Discharge/Misconduct
Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 15, 2017, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 7, 2017. The claimant participated in the hearing. Julie Zuviri, Staffing Specialist, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

The claimant was employed as a full-time disaster case manager for Manpower last assigned at Operation Threshold from November 7, 2016 to May 8, 2017. The claimant completed the assignment which ended due to a lack of funding.

The employer's policy requires employees to call in within 48 hours of the completion of the assignment to let the employer know the employee's availability for her next assignment (Employer's Exhibit One). The claimant did not contact the employer for several weeks after the assignment ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

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. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Code § 96.5-(1)-j 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. But the individual shall not be disqualified if the department finds that:

j. (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

(2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise

explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The employer has not established misconduct on the part of the claimant as defined by Iowa law. The remaining issue is whether the claimant sought reassignment from the employer.

Under Iowa law, the employee has three working days to notify the temporary employment firm of the completion of her assignment. In this case, the employer's policy requires employees notify it within 48 hours, which does not comply with Iowa law.

Iowa law also requires that the employer's notification requirement be in writing and provided to the employee at the time of hire. It further states, "The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee." The employer's notification requirement is contained on a sheet entitled "Assignments" which has 20 bullet points regarding the assignment and stating the employee works for Manpower rather than the client. The 18th bullet point states, "Your assignment ends. You must call us within 48 hours to let us know of your availability for your next assignment." The document then addresses worker's compensation issues and "Getting Paid." The manner in which the employer presents the availability requirement to the employees does not meet the requirement of Iowa law stating it must be separate from any contract of employment. The purpose of the law is to set out this requirement so an employee sees and knows the importance of the rule. In this case, the requirement is buried among 19 other bullet points, worker's compensation instructions and information regarding getting paid. Consequently, the administrative law judge finds it does not comply with either the statute or spirit of the statute. Therefore, benefits must be allowed.

DECISION:

The June 15, 2017, reference 02, decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn