

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARION L PEASTON**

Claimant

**APPEAL NO. 13A-UI-07172-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INTERNATIONAL INC**

Employer

**OC: 05/05/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated June 12, 2013, reference 02, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 25, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Mark Berry. Melissa Britt 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 on a full time assignment at Wacker Biochemical from July 23, 2012, through May 7, 2013.

The claimant had informed supervisors at Wacker Biochemical and the employer that he was going to move to Des Moines but continue to work at Wacker Biochemical. He requested May 9 and 10 off to move, and his time off was approved.

On May 7 a supervisor was upset with the claimant because the claimant was rejecting bags that had not been properly glued. The claimant was following the instructions he had been given to perform the job, but the supervisor sent the claimant home before the end of his shift.

In the evening on May 7, he was contacted by someone with U-Haul and informed that the moving truck would be ready on May 8 not May 9 as was the original plan. The claimant called a supervisor and requested to take May 8 and 9 off instead of May 9 and 10. He was approved to adjust his moving schedule.

On May 8, 2013, the claimant received a call from a staffing specialist with the employer. She told the claimant that management at Wacker Biochemical had requested that he be removed from the assignment because of the conflict with the supervisor on May 7. The claimant asked for other work but nothing was available.

#### **REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant did not quit his employment. He was removed from his assignment and not offered another assignment. The separation from work was initiated by the employer and should be treated as a discharge.

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

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. The claimant was the only person at the hearing with knowledge of what took place on May 7. He was not insubordinate or unprofessional but was doing the job as he had been instructed to do.

#### **DECISION:**

The unemployment insurance decision dated June 12, 2013, reference 02, 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/pjs