

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN A STURTZ
Claimant

APPEAL NO. 08A-UI-09752-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYMENT CONNECTIONS INC
Employer

**OC: 07/06/08 R: 01
Claimant: Appellant (2)**

Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 15, 2008, reference 03, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on November 6, 2008. Claimant participated. Employer participated through Deb Lenz.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was hired as a full-time temp-to-hire laborer for Vision Manufacturing and worked from April 30, 2008 until May 5, 2008, when he quit the assignment because it was not as represented at the interview and plant tour. When interviewed for the job with employer and the manufacturer, he asked if it involved computer numerical controlling (CNC) work and both said it did not. Once he started, the manufacturer began to train him to work on a CNC machine. He told the employer he had not agreed to this type of work and Lenz asked him to stay until she found a replacement but did not specify a date. He agreed and reported to work on Thursday when he injured his eye and he was sent home early. His eye still hurt on Friday, so he called in and asked for another assignment but was told there was nothing available. He did not report back to the CNC assignment the following Monday but did call in at least once per month until September when employer told him they would not work with him any longer.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

871 IAC 24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

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. 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.

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.

For the purposes of this paragraph:

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

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

Generally notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The misrepresentation of the job assignment gave rise to a good cause reason for leaving the assignment. Since he sought more assignments, he met the availability reporting requirements of Iowa Code § 96.5(1)j. Benefits are allowed.

DECISION:

The October 15, 2008, reference 03, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw