

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL L ANTHONY**  
Claimant

**APPEAL NO. 08A-UI-06537-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA LUBRICATION LLC**  
**JIFFY LUBE**  
Employer

**OC: 06/15/08 R: 02**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(4) – Intolerable Working Conditions

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 14, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on July 30, 2008. Claimant participated. Employer did not respond to the hearing notice instructions and did not participate.

**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 to work as a full-time lower bay technician from February 29, 2008 until June 19, 2008, when he quit. Claimant was promised the assistant manager position and Assistant Manager Michael Brown was going to be manager at the Marshalltown store, but manager Curt was brought in from the Mason City store to be manager. He was hired to work 40 or more hours per week, but he ended up working 10 hours off the clock or having his hours reduced. The first two weeks the promises were kept, but after that employer hired younger workers and cut his hours to reduce payroll costs. He complained to Assistant Manager Michael Brown, who said he would talk to the manager but never got back to him. He waited to quit because he thought they would fix the issues since they were starting over with a new crew. Employer continued to make assurances they would give him the hours they promised, but that did not change and they cut his hours when he complained about safety issues. The fire exit in the basement was locked from the inside with a bolt, so he could not get out in an emergency. It was not repaired until a week before he quit. One step is all wood instead of the plastic or rubber coated metal cleat steps, his feet were covered in oil and he slipped twice and hurt himself so that he missed work the next day. He told Brown but was not instructed to complete a first report of injury and does not know that Brown did. There was supposed to be a burn sleeve to protect arms from burns on the exhaust, but employer did not

provide one and claimant has burn scars on his arm as a result. The tools were broken but he was expected to work on a time schedule and had to carry tools from home and back and forth between the bays. He was required to report 20 minutes before his start time but was not allowed to clock in until the manager told him he could do so. This sometimes resulted in him sitting and waiting to start work after his start time or working while not clocked in. On one occasion, he had clocked in and worked two hours before he was made aware that the manager had clocked him out an hour and a half earlier. On his last day of work the manager and assistant manager "got in a screaming match" before customers arrived, the manager later lost his temper and threw tools out in the parking lot in front of a customer, and sometime after that the manager and assistant manager argued in front of customers.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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(2), (3), and (4) provide:

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:

(2) The claimant left due to unsafe working conditions.

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

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).

In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving employment. *Deshler Broom Factory v. Kinney*, 140 Nebraska 889, 2 N.W.2d 332 (1942). In general, a substantial pay reduction or 25 to 35 percent

reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988).

Any of the conditions alone or in combination created an intolerable work environment for claimant and those conditions and management behavior gave rise to multiple good-cause reasons for leaving the employment. Benefits are allowed.

**DECISION:**

The July 14, 2008, reference 01, 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. The benefits withheld effective the week ending June 21, 2008 shall be paid to claimant forthwith.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw