

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

JASON V SKILLEN

Claimant

and

SUKUP MANUFACTURING CO

Employer

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HEARING NUMBER: 22B-UI-05756

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1 96.-5-2

DECISION

The Employer appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Employment Appeal Board would adopt and incorporate as its own the administrative law judge's Findings of Fact.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.26(6) 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:

871 IAC 24.26(6)"b" provides:

Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; *before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated.* Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available. (Emphasis added.)

The Claimant never presented his doctor's note containing restrictions to the Employer. And although the Claimant informed the Employer about his medical issues, he didn't put the Employer on notice that he would have to quit unless the Employer could accommodate him. The court in *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993) established three elements that are required for a quit to be found with good cause attributable to the Employer:

1. Claimant must notify the Employer of the work-related health condition;
2. Claimant must inform the employer the Claimant will quit if reasonable accommodation not provided;
3. And Claimant must give the Employer a reasonable amount of time to provide reasonable accommodation.

If any or all of these elements are missing, the quit is *without* good cause. Based on this record, we conclude the Claimant's quit was disqualifying.

DECISION:

The administrative law judge's decision dated April 29, 2022 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, he is denied benefits until such time he has worked in and was paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(1)"g".

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv