

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY J FLEMING
Claimant

APPEAL NO. 08A-UI-08910-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASCADE LUMBER COMPANY
Employer

OC: 02/10/08 R: 04
Claimant: Respondent (4)

Iowa Code § 96.5(1)a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 24, 2008, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on October 20, 2008. Claimant participated. Employer participated through Will Noonan, human resources manager.

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 employed until July 7, 2008 when he was temporarily laid off. On August 26, 2008 claimant called Marty Cavanaugh, plant manager and told him he found other employment so was considered to have quit the employment at that point. Claimant did not contact the human resources department indicating he wanted to stay on the recall list. His last weekly claim for benefits was the week ending August 30, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

Because the claimant left during the temporary lay off period in order to accept other employment, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The September 24, 2008, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 043524) shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs