

CMG - 58



Unemployment Insurance Minnesota

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118678801

EMPLOYER SOLUTIONS STAFFING GROUP II
7301 OHMS LN STE 405
EDINA MN 55439-2347

Employer Account Number: 5044364
SSN: 471-17-5635

Issue Identification Number: 28674615-2

NOTICE OF DECISION OF THE UNEMPLOYMENT LAW JUDGE

Under Minnesota Statutes 268.105, subdivision 1 , the enclosed decision of the Unemployment Law Judge is served on you.

NOTICE TO THE PARTIES: The law of the State of Minnesota at Minnesota Statutes 268.105, subdivision 5a, provides that the findings of fact and decision issued are only for unemployment insurance benefit entitlement purposes and do not affect any other legal or contractual matter.

ALSO MAILED TO:

SCOTT PARCELLS , APPLICANT



Unemployment Insurance
Minnesota

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In the Matter of:

SCOTT PARCELLS ,

Applicant,

AND

**FINDINGS OF FACT
AND DECISION**

EMPLOYER SOLUTIONS STAFFING GROUP II ,
Employer.

An evidentiary hearing, under Minnesota Statutes 268.105, subdivision 1, was conducted on Thursday, December 1, 2011 , as a result of the Applicant 's appeal from a Determination of Ineligibility issued on Friday, October 21, 2011 .

ISSUE(S)

Whether the applicant quit due to good reason caused by the employer.

FINDINGS OF FACT

Scott I. Parcels appeal was heard by telephone on November 14, 2011 and December 1, 2011. Scott I. Parcels participated. Employer Solutions Staffing Group II participated through Rob Hart, unemployment team lead with Samantha Servin, a site representative with Corporate Management Group Inc. and Matthew Forss, president of Corporate Management Group Inc. Employer Staffing Solutions II is a payroll company and handles unemployment and worker's compensation matters as the employer of record for individuals performing work at Twin Cities Upholstery, a client account, located in Fridley, Minnesota. Corporate Management Group Inc. provides management, hiring, firing and on site human resource functions for Employer Staffing Solutions II at Twin Cities Upholstery. Scott I. Parcels was employed by Employer Solutions Staffing Group II from June 21, 2011 to August 14, 2011, as a production helper at Twin Cities Upholstery. He received \$8 per hour from July 1, 2011 to August 14, 2011. Employer Solutions Staffing Group II paid Parcels every Friday for the prior Monday through Friday work week. Matthew Forss, president of Corporate Management Group Inc. informed Parcels at the time of hire that his work hours would be full-time with work hours from 8:00 a.m. to 5:00 p.m., Monday through Friday. Parcels was dissatisfied with working at a family run business and with the verbal arguments between the owner and the family members of Twin Cities Upholstery. He was



supervised during the work day by Ernest, the owner's husband. Ernest would instruct Parcels not to listen to Gina, the owner. They complained he was not putting out enough bags. He complained to Corporate Management Group Inc. that Twin Cities Upholstery owners and family were fighting but did not inform them that it made him uncomfortable. He did not complain to Forss other than to mention there were family problems at Twin Cities Upholstery. The applicant was seeing a psychologist. No physician or clinician directed Parcels to quit his employment. Parcels was absent from scheduled work on approximately two occasions. Parcels received approximately 20 to 47.50 hours per week or an average of approximately 25 to 35 hours per week, depending primarily on the needs of the employer. He worked 47.50 hours during the week ending July 30, 2011 and 33.50 hours of work during the week ending August 6, 2011. He worked 27 hours during the week beginning August 7, 2011 through Thursday August 11, 2011. He was absent from approximately six hours of scheduled work on August 12, 2011. Twin Cities Upholstery normally informed Parcels at the end of his shift as to the time he was to report to work the following day. His work hours were normally from 8:00 a.m. - 9:00 a.m. to 3:30 p.m. - 4:30 p.m. Parcels complained to Ernest that his pay rate was too low and that he was used to receiving \$15 per hour. Ernest indicated Parcels would receive a wage increase. Parcels complained to Forss that if he did not receive a wage raise he would quit. On August 11, 2011 Parcels received a wage raise of 50 cents effective August 14, 2011. On approximately August 13, 2011, Parcels complained to Forss of Corporate Management Group Inc. regarding his only receiving a 50 cent per hour wage raise effective August 14, 2011 and that it was not worth it to continue employment and deal with the family drama and lack of receipt of 40 hours per week without a substantial increase in his wage rate and he would have to think about. CONTINUED UNDER ADD'L NOTES

REASONS FOR DECISION

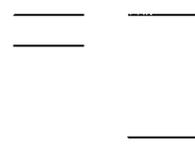
An applicant who quit employment is ineligible for all unemployment benefits according to Subdivision 10, of Minnesota Statute Section 268.095, except when: (1) the applicant quit the employment because of a good reason caused by the employer as defined in subdivision 3; . . . Minnesota Statutes Section 268.095, Subdivision 3, defines a good reason caused by the employer for quitting as a reason directly related to the employment and for which the employer is responsible, adverse to the worker; and that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment. Where an employee is subjected to adverse working conditions, the employee must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before the separation may be considered a good reason caused by the employer for quitting. Ineligibility for unemployment benefits under Minnesota Statutes Section 268.095 begins the Sunday of the week of the separation from employment and lasts until the applicant has had earnings from subsequent covered employment of eight times the applicant's weekly benefit amount. Parcels testimony



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is less credible than that of the employer witnesses'. His testimony as to the hours he worked changed during the hearing and was not consistent with the records. He testified that he told the owner of Twin Cities Upholstery that he was used to getting \$15 per hour. Department records indicate he worked part-time during his base period. He eventually testified that he received \$7.50 per hour for one employer and \$11 per hour for the other employer during his base period. He testified he complained prior to his separation regarding the hostile work environment but his testimony was not consistent with prior statements to the Department. The evidence indicates he made the on site manager of Corporate Management Group Inc. aware that the owners and family of Twin Cities Upholstery were engaging in fights and had family problems and did not mention specific problems or how it was affecting him. He had difficulty articulating problems or incidents. The evidence fails to show that the work environment was so onerous as to cause the average reasonable employee similarly situated to quit. Matthew Forss' testimony was credible. He testified he told Parcels he would be hired full-time and mentioned specific hours of work each day. The terms and conditions of employment were not in fact as represented at the time of hire. Parcels had a reasonable basis to believe he would receive at least 35 hour of work per week on a regular basis, or 9:00 a.m. to 5:00 p.m. Monday through Friday. The hours of work were instead primarily part-time without definite or certain hours of work each day. The misrepresentation would have provided Parcels with good reason to quit, but the evidence fails to show that the work hours were in fact the true reason that Parcels quit. The lack of full-time work hours was not raised by Parcels on any document he submitted prior to the hearing. He indicated he would text and talk with management but the only record of any complaint about work hours was not shown to occur until his separation. He failed to provide management with sufficient notice and opportunity to respond to any complaint about the lack of full time hours prior to Parcels' quitting. He testified that he would have remained working had he received a substantial wage raise regardless of the number of hours he was scheduled to work. Although he correlated the low wage with part-time hours as a reason to quit, he failed to provide such clear correlation and reasonable notice for the employer to respond.



DECISION

On August 14, 2011, Scott I Parcels quit employment, and is ineligible from the payment of unemployment benefits. Should Scott I Parcels satisfy the ineligibility any unemployment benefits then paid will not, under Minnesota Statutes Section 268.047, subdivision 2 and 3, be used in computing the future unemployment tax rate of Employer Solutions Staffing Group II.

Dated: Monday, December 5, 2011

Barbara Walters

Unemployment Law Judge

OTHER NOTES:

CONTINUED FINDINGS OF FACT On August 14, 2011, Scott I. Parcels quit employment with Employer Solutions Staffing Group II because of dissatisfaction with his pay rate, lack of full-time employment and with the other terms and conditions of employment. Parcels established an unemployment benefit account effective October 2, 2011. Her weekly unemployment benefit amount was determined to be \$169. His base period was determined to be July 1, 2010 through June 30, 2011.

Login to your account at www.uimn.org to check the status of the other issue(s).

If you have any questions about this decision, you may contact the the Unemployment Insurance Program. You must have your Issue Identification Number available when you call.

REQUEST FOR RECONSIDERATION

If you believe this decision is factually or legally incorrect, you may request the unemployment law judge to reconsider the decision. You may do this by logging in to your account at www.uimn.org, by fax, or by mail (fax number and address are listed at the bottom of this page). A request for reconsideration must include the issue identification number.

Under MN Statute 268.105, subd.2, this decision will be final unless a request for reconsideration is filed with the unemployment law judge on or before Tuesday, December 27, 2011 .

All reconsideration requests filed by an agent on behalf of an employer must be filed online. Use of another method of filing by an agent does not constitute an appeal. If the agent does not have access to file the appeal online, the agent must instruct the employer to file the appeal. Details of this requirement can be found at uimn.org.



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