

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN M LIEN
Claimant

APPEAL NO. 07A-UI-08577-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STUEVE CONSTRUCTION CO INC
Employer

**OC: 08/05/07 R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated August 29, 2007, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 24, 2007. Claimant participated. Employer participated by Matt Muller, Controller.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 8, 2007. Claimant worked as a general laborer. Claimant made a prior complaint about name calling. Several employees had called claimant stupid, dumb, and ignorant. The harassment was ongoing. Claimant complained about name calling on August 8, 2007. Employer did nothing about the name calling notwithstanding the formal complaint. Claimant was told that he was part time and had to deal with it. Claimant quit due to the name calling.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of intolerable and detrimental working conditions. Claimant's version is found correct as it was by in-person and sworn testimony. Employer offered only hearsay to refute the claimant's allegations. Sworn testimony is more credible as an issue of law. Constant harassment and name calling is an intolerable working condition. This is a quit for cause attributable to employer. Benefits allowed.

Iowa Code section 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(4) 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:

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

DECISION:

The decision of the representative dated August 29, 2007, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css