

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFERY ASHCRAFT**  
Claimant

**APPEAL NO: 13A-UCFE-00056-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RASMUSSEN DRAINAGE SERVICE LTD**  
Employer

**OC: 07/07/13**  
**Claimant: Respondent (2)**

Iowa Code § 96.5-1 - Voluntary Quit  
Iowa Code § 96.3-7 - Overpayment

**STATEMENT OF THE CASE:**

Rasmussen Drainage Service, Ltd. (employer) appealed an unemployment insurance decision dated December 10, 2013, reference 01, which held that Jeffery Ashcraft (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 7, 2014. The claimant participated in the hearing. The employer participated through co-owne. Ryan Rasmussen. Employer's Exhibits One through Four were admitted into evidence.

**ISSUES:**

The issues are whether the claimant is disqualified for benefits, whether he was overpaid unemployment insurance benefits, whether he is responsible for repaying the overpayment and whether the employer's account is subject to charge.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time general laborer from October 1, 2013 through November 1, 2013 when he voluntarily quit. He contends he quit due to hostile work conditions because the employer raised his voice and spoke to him in a "belittling" and "demeaning" tone. The claimant said the employer used profanity and said that was the way his father worked so that was the way he worked. The employees work outside around a lot of large, loud equipment. The employer contends the claimant spent a lot of time just standing around and avoiding work. He was counseled several times about doing the work. The claimant was hired to work Saturdays but only worked one Saturday out of the four that he was scheduled.

The claimant filed a claim for unemployment insurance benefits effective July 7, 2013 and has received benefits after the separation from employment in the amount of \$1,629.00.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit on November 1, 2013 due to what he described as intolerable work conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

The evidence provided by the claimant does not rise to an intolerable or detrimental work environment. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

Because the claimant has been deemed ineligible for benefits, any benefits he has received could constitute an overpayment. The unemployment insurance law requires benefits be recovered from a claimant who receives benefits from an initial decision and is later denied benefits from an appeal decision, even though the claimant acted in good faith and was not otherwise at fault. In some cases, the claimant might not have to repay the overpayment if both of the following conditions are met: 1) there was no fraud or willful misrepresentation by the claimant; and 2) the employer failed to participate in the fact-finding interview. If the overpayment is waived due to the employer's failure to participate, that employer's account continues to be subject to charge for the overpaid amount. See Iowa Code § 96.3-7.

In the case herein, the benefits were not received due to fraud or willful misrepresentation and the employer witness did not participate in the fact-finding interview. Consequently, the overpayment is waived and the employer's account continues to be subject to charge.

**DECISION:**

The unemployment insurance decision dated December 10, 2013, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The overpayment is waived and the employer's account is subject to charge for benefits paid prior to the disqualification.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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