

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREW ROMANO**  
Claimant

**APPEAL NO: 12A-UI-08380-B**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE BRANDS LLC**  
Employer

**OC: 05/20/12**  
**Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Andrew Romano (claimant) appealed an unemployment insurance decision dated July 2, 2012, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Advance Brands, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Spencer, Iowa on September 25, 2012. The claimant participated in the hearing. The employer did not participate in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**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 January 17, 2012 through May 14, 2012 when he voluntarily quit due to hostile work conditions and harassment at the workplace. The harassment started shortly after he began when a co-worker named Brett took the claimant's inventory tag off the claimant's count and put his own tag on it. Brett called him "chump shit", threatened to kick his ass and yelled at him in front of other employees. Kathy Waterman of human resources called in the claimant several weeks after he started and asked him whether he was being harassed by Brett. Ms. Waterman told the claimant that there were previous problems with this particular employee. The claimant was not aware of any action that may have been taken with this employee but he did not see any difference with Brett's conduct towards him.

The co-workers made fun of him because he has to take medication and because he had to use a calculator, even though the employer provided calculators to its employees. The claimant would ask for help on something he did not understand and his questions were ignored. He was told he was over-analyzing things and his concerns were ignored. The claimant went to

human resources, his supervisor and even the superintendent about the problems but nothing was done. He tried to ignore the taunts and acted as if he did not hear the comments since all employees had to wear ear protection.

The final straw was when his motorcycle had been moved and vandalized when he was at work on May 14, 2012. He was talking to the superintendent on his break and they walked outside. The claimant had previously driven his motorcycle to work before and when he went outside, it was not parked where he had left it. The superintendent asked the claimant if he was sure that was where he had parked it. The motorcycle was at the other end of the lot and it now had scratches and a ding on the front fender which had not been there when he parked it. The claimant asked the superintendent what his options were since there were no cameras in the parking lot. The superintendent said he could report it to the police but the claimant opted not to do that since he believed things might get even worse. However, when he went back inside the facility, an employee made a comment asking where he parked his bike. The claimant could not take it anymore and quit.

#### **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 May 14, 2012 due to hostile work conditions and harassment at the workplace. 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).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

The evidence provided by the claimant does establish an intolerable or detrimental work environment. 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 satisfied that burden and benefits are allowed.

**DECISION:**

The unemployment insurance decision dated July 2, 2012, reference 01, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css

**NOTE TO CLAIMANT:** You may find additional information about food, housing, and other resources by dialing 211 or at <http://65.166.193.134/IFTWSQL4prod/iowa/public.aspx>.