

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN DEE**  
Claimant

**APPEAL NO: 12A-UI-10580-B**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELDER CORPORATION**  
Employer

**OC: 11/20/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Elder Corporation (employer) appealed an unemployment insurance decision dated August 21, 2012, reference 01, which held that Steven Dee (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Mason City, Iowa on October 16, 2012. The claimant participated in the hearing. The employer participated through James McFadden, Controller. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the parties, 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 employer is a dirt and utility grading contractor. The claimant was employed as a full-time heavy equipment operator from March 2008 through July 14, 2012 when he voluntarily quit due to intolerable work conditions. The employer hired Foreman Frank Alexander in March 2012 and it was Mr. Frank who created the intolerable and detrimental working conditions.

The claimant did not have any prior problems and did not have problems with other employees. He felt like he had to walk on "tippy toes" and could not please this foreman. Mr. Alexander mistreated his subordinates by threatening them and calling them names on a regular basis. He called them names like "dumb fucker", "asshole", "ignorant cock sucker", and a "dumb son-of-a-bitch." The stress became so intense that the claimant had difficulty sleeping at night wondering what he was going to get his "ass chewed" about on the following day.

Mr. Frank was very simply verbally abusive and screamed while going down the road in the truck. He also talked disrespectfully about the employer by stating, "Elder Corporation is fucking

stupid, they don't know nothing." I've never seen such a fucked up company. This computer is a fucking joke, I hate it. These people are stupid."

The claimant complained more than once to Superintendent Tim Elder and Safety Director Darrell Brown. Mr. Elder said he would take care of it and at one point Mr. Brown said it was out of his hands. Mr. Frank rushed the claimant and told him to hurry but the claimant testified that it was easier to make mistakes when he had to hurry. Mr. Frank told the employees, "Whoever can't check grade from now on, I'm going to fire them." He also said, "You just do what you're fucking told." After the claimant learned the employer was unwilling to correct or control its abusive foreman, he decided he could no longer work under those conditions and voluntarily 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 July 14, 2012 due to 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).

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 rise to an intolerable or detrimental work environment. The claimant had met his burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Benefits are therefore allowed.

**DECISION:**

The unemployment insurance decision dated August 21, 2012, reference 01, is affirmed. 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

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