

INDUSTRIAL CLAIM APPEALS OFFICE

Docket Number: 18903-2008

Social Security: [REDACTED]

IN THE MATTER OF THE CLAIM OF

CRAIG D. BUCKLEY,

Claimant

v.

DREAM STONE, INC.,

Employer

FINAL ORDER

The claimant appeals the hearing officer's decision to deny the claimant unemployment benefits pursuant to § 8-73-108(5)(e)(I), C.R.S. 2008 (quit due to dissatisfaction with standard working conditions). We reverse.

The hearing officer found that the claimant quit because he was not satisfied with his work environment. The claimant's working conditions included repeated incidents in which the company president would yell at employees. The claimant had left his employment once before and was aware of the working conditions at the time of his earlier separation. The claimant experienced insomnia and stress-related symptoms due to the stressful work environment. The claimant subsequently quit after a final incident involving changes to priorities for the claimant's work. Several individuals at the employers repeatedly interrupted the claimant to inquire about his work for the day. The hearing officer was persuaded that the inspection of the claimant's paperwork was appropriate; however, he determined that the claimant "had to endure many more visits with interruptions to his work than would be the norm." He advised his supervisor "he had it and would not be back."

The hearing officer described the work environment as "difficult" and was "persuaded that a lot of yelling went on." He also determined that an individual cannot acquiesce to "an abusive environment." However, because the claimant had separated from the employer in the past, but returned "with full knowledge as to what the environment was ... the claimant did acquiesce to the yelling." The hearing officer concluded that the claimant's working conditions were not objectively unsatisfactory under the circumstances. We conclude otherwise.

We first note that the hearing officer's findings generally are not contrary to the weight of the evidence in the record of the hearing, and we may not alter them. The hearing officer's findings include his finding that the claimant worked in what the hearing officer described as "an abusive environment." Furthermore, the hearing officer found that the claimant acquiesced to "the yelling" by the president of the company as demonstrated by his return to such a condition. However, the hearing officer also found that on the day the claimant actually quit and advised his supervisor "that he had it and not be back," the company's president was out of the country. It is therefore apparent that the claimant's objectionable working conditions extended beyond being yelled at by the company president. As noted above, the hearing officer was persuaded that the repeated interruptions the claimant faced on his last day of work was essentially excessive.

The findings support the conclusion that a reasonable individual in the circumstances would find the working conditions to be unsatisfactory such that he would quit, and an award of benefits is therefore warranted pursuant to § 8-73-108(4)(c). *See Rodco Systems, Inc. v. Industrial Claim Appeals Office*, 981 P.2d 699 (Colo. App. 1999); *see also, Clark v. Colorado State University*, 762 P.2d 698 (Colo. App. 1988) (Industrial Claim Appeals Panel not bound by hearing officer's legal conclusions).

IT IS THEREFORE ORDERED that the hearing officer's decision issued January 13, 2009 is reversed. The claimant is entitled to an award of benefits pursuant to § 8-73-108(4)(c).

INDUSTRIAL CLAIM APPEALS PANEL



John D. Baird



Curt Kriksciun

NOTICE

- This order is **FINAL** unless you appeal it to the **COLORADO COURT OF APPEALS**. To do so, you must file a notice of appeal in that court, either by mail or in person, but it must be **RECEIVED BY** the court at the address shown below within twenty (20) calendar days of the mailing date of this order, as shown below.
- A complete copy of this final order, including the mailing date shown, must be attached to the notice of appeal, and you must provide five (5) copies of both the notice of appeal and the complete final order to the Colorado Court of Appeals
- You must also provide copies of the complete notice of appeal package to the Industrial Claim Appeals Office, the Division of Employment & Training, and all other parties, whose addresses are shown below.
- In addition, the notice of appeal must include a certificate of service, which is a statement certifying when and how you provided these copies, showing the names and addresses of these parties and the date you mailed or otherwise delivered these copies to them.
- An appeal to the Colorado Court of Appeals is based on the existing record before the hearing officer and the Industrial Claim Appeals Office, and the court will not consider documents and new factual statements that were not previously presented or new arguments that were not previously raised.
- Forms are available for you to use in filing a notice of appeal and the certificate of service. You may obtain these forms from the Colorado Court of Appeals online at its website, http://www.courts.state.co.us/Courts/Court_of_Appeals/Forms_Policies.cfm, or in person, or from the Industrial Claim Appeals Office.
- The court encourages use of these forms. Proper use of the forms will satisfy the procedural requirements of the Colorado Appellate Rules for appeals to the Colorado Court of Appeals.

Colorado Court of Appeals
2 E. 14th Ave., 3rd Floor
Denver, CO 80203

Industrial Claim Appeals Office
P.O. Box 18291
Denver, CO 80218-0291

Division of Employment & Training
Attn: U.I. Benefits
251 E. 12th Ave.
Denver, CO 80203

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Copies of this order were mailed to the parties at the addresses shown below on

_____ 05/12/09 _____ by _____ KG _____.

✓ CRAIG D BUCKLEY

██████████
LONGMONT, CO 80501

✓ DREAM STONE INC
4040 KODIAK CT
LONGMONT, CO 80504

DAN GOODWIN
ATTORNEY AT LAW
8001 ARISTA PLACE SUITE 400 WEST
BROOMFIELD, CO 80021
(REPRESENTING THE EMPLOYER)

CC: REIMBURSEMENT UNIT