

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BAKURA C JOKA
Claimant

APPEAL NO: 09A-UI-04368-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK
Employer

OC: 05/11/08
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Bakura C. Joka (claimant) appealed a representative's March 11, 2009 decision (reference 04) that concluded he was not qualified to receive benefits, and the account of Aerotek (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 28, 2009. The claimant participated in the hearing. Courtney Dowling and John Talcott, a recruiter, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing agency. After the claimant registered to work for the employer, the employer assigned the claimant to work as machine operator C.E. The claimant began this job assignment on May 27, 2008.

The employer did not tell the claimant he had to work a minimum of 1,500 hours before he was eligible to receive holiday pay. During the week of Thanksgiving, the claimant indicated on his timecard he received holiday pay for Thanksgiving Day. The employer paid the claimant holiday pay for Thanksgiving.

On December 29, T.R., C.E.'s production manager, asked the claimant why he reported holiday hours for Christmas. T.R. told the claimant he had to work 1,500 hours before he was eligible for holiday pay. The claimant did not understand and became upset because no one told him about working 1,500 hours before he received holiday pay. Also, since the claimant had received holiday pay for Thanksgiving, he did not understand why he would not receive holiday pay for Christmas. T.R. called the employer or at least told the claimant he had called the

employer and repeated that before he could receive holiday pay he had to work 1,500 hours. T.R. then wrote this information on a piece of paper and threw the paper in the claimant's face. The claimant became very upset at the unprofessional way T.R. treated him. The claimant told T.R. he was going to quit because of the unprofessional way he treated the claimant. As the claimant started to leave, T.R. grabbed the claimant's shoulder and started treating the claimant nicely. T.R. asked the claimant stay.

The next day, the employer's called the claimant after learning he was upset about missing a paycheck. The claimant told the employer he was giving his ten-day notice because he could not continue to work at C.E. after the incident the day before.

The claimant went to work at C.E. with the understanding he would work until the end of ten-day notice. T.R. asked the claimant why he was at work. The claimant indicated he had given a ten-day notice and would only work another ten days. At 11:00 a.m., C.E. personnel told the claimant to leave. The claimant did not understand why he was asked to leave 30 minutes early.

On December 31, the claimant went to the employer's office to explain what had happened the day before. Talcott talked to the claimant on December 31. During their discussion, Talcott told the claimant he could leave the C.E. assignment at any time and did not have to have a good reason for leaving. The claimant indicated he would not return to work at C.E. The claimant understood he was not obligated to work until the end of his ten-day notice and there were no consequences if he did not return to that job. The employer did not have another job to assign the claimant on December 31.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant quit his job assignment at C.E. Even though C.E. was not the claimant's employer, the claimant became unemployed when he quit his assignment at C.E. When a claimant quits he has the burden to establish he leaves employment with good cause. Iowa Code § 96.6.2.

The law presumes a claimant quits with good cause when he leaves because of intolerable or detrimental working conditions. 871 IAC 24.2 6(4). Based on the evidence presented during the hearing, the claimant established good cause for quitting his assignment at C.E. The evidence also indicates, C.E. management did not allow the claimant to work until the end of his ten-day notice. Therefore the employer's assertion the claimant was not in good standing with the employer for failing to work until the end of his ten-day notice is without merit. Also, the facts indicate the employer would have assigned the claimant to another job, but the employer did not have another job to assign to the claimant on December 31. Since the claimant quit his assignment for reasons that qualify him to receive benefits, he is qualified to receive benefits as of February 15, 2009, when he reopened his unemployment insurance claim.

During the claimant's current benefit year, May 11, 2008 through May 9, 2009, the employer's account will not be charged because the employer is not one of the claimant's base period employers.

DECISION:

The representative's March 11, 2009 decision (reference 04) is reversed. The claimant quit his job assignment for reasons that qualify him to receive benefits. As of February 15, 2009, the

claimant is qualified to receive benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css