

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAVID L BRUSH**  
Claimant

**AEROTEK I INC**  
Employer

**APPEAL 23A-UI-10941-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/20/23  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

On November 22, 2023, claimant David L. Brush filed an appeal from the November 15, 2023 (reference 09) unemployment insurance decision that denied benefits, determining claimant voluntarily quit his position on September 25, 2023 for personal reasons. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on November 28, 2023. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 2:00 p.m. on Tuesday, December 12, 2023. Claimant David L. Brush participated. Employer Aerotek I, Inc. did not appear and did not participate. Claimant did not submit any exhibits for the hearing.

**ISSUE:**

Did the claimant quit his employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for Aerotek for one day. His job assignment was a production technician at Iowa Renewable Energy in Washington. Claimant worked his full shift, and then he quit. Continued work was available, had claimant not left his employment.

The primary reason claimant left his employment involved his ability to breathe and the workplace's impact on that ability. Approximately halfway through claimant's shift, he started experiencing difficulty breathing. This issue worsened somewhat throughout the second half of his shift. Claimant's breathing issue persisted for twelve hours after he left work. Claimant did not see a doctor during his one day of work to determine why he was having trouble breathing.

Claimant also had issues with the amount of training he received and with the physical demands of his job. When he was hired, claimant was told he would receive a week of training. However, on his first day, the employer put claimant to work immediately without giving him any training. The employer also told him the position would involve 75% production/floor work and 25% computer work. The first day, however, he did not use a computer at all.

When claimant's first shift ended, he spoke to Reese with Aerotek and stated he needed to quit due to his difficulty breathing at the workplace. Reese suggested claimant give it another try, and he guessed claimant's breathing issue may be an allergy to something in the workplace. Claimant said he could not work one more day, due to his concerns about becoming completely

unable to breathe. The following day, claimant had a conversation with Reese about further employment opportunities with Aerotek.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant quit his employment with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.26(4) and (6)(b) provide:

Voluntary quit with good cause attributable to the employer...The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

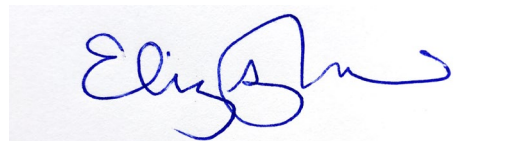
A claimant who quits employment for a health-related reason attributable to his employment must first see a medical professional and obtain proof of the health condition that is caused or exacerbated by the workplace. Then, the claimant must take that proof to the employer and tell the employer they intend to quit unless either (1) the problem is resolved or (2) they are granted an accommodation. If the employer will not resolve the problem or grant a reasonable accommodation, then and only then may a claimant quit and receive benefits.

Here, the claimant quit after one day working in his new work environment. He did not see a doctor that advised him to quit during that one day of work, and he did not ask for any time off to see a doctor to try and determine the source of the issue and find a resolution that would prevent him quitting. While claimant may have had a serious medical issue that required him to quit immediately, he also may have had a simple allergy that could have been remedied by an over-the-counter allergy pill. The facts presented show claimant did not give the employer a fair opportunity to consider whether to resolve any issue it had in its environment or to grant an accommodation, as he never presented any medical evidence documenting that his workplace was causing a problem.

The other issues that claimant presented, even combined with his breathing issue, do not amount to a good-cause reason to quit his employment. Claimant was on the job for one day. This was not a sufficient length of time to determine his workload balance or to receive all training the employer would offer. While claimant have felt entitled to quit, his decision to do so was without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The November 15, 2023 (reference 09) unemployment insurance decision is affirmed. Claimant quit the employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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Elizabeth A. Johnson  
Administrative Law Judge

December 14, 2023  
Decision Dated and Mailed

lj/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.