

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**THOMAS D BARROW**  
Claimant

**APPEAL NO. 19A-UI-01459-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AEROTEK INC**  
Employer

**OC: 01/27/19**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Thomas Barrow filed a timely appeal from the February 13, 2019, reference 01, decision that held he was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Barrow voluntarily quit on January 31, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 5, 2019. Mr. Barrow participated. The employer did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Aerotek, Inc. is a temporary employment agency. Thomas Barrow began his employment with Aerotek in May 2018. On May 22, 2018, Mr. Barrow commenced a full-time, temp-to-hire work assignment at CEI Manufacturing in Cedar Rapids. CEI manufactures feed and grain trailers. Mr. Barrow's hourly wage throughout his time at CEI was \$17.00. Mr. Barrow began the assignment at CEI as a second-shift Final Assembly worker. Mr. Barrow's Final Assembly work hours were 3:00 p.m. to 11:30 p.m., Monday through Friday. Mr. Barrow began the assignment with the understanding that CEI would make a decision regarding whether to hire him as a direct employee at or before the six-month point in the assignment. That six-month point would be November 22, 2018. In October 2018, Mr. Barrow requested to move to an open temp-to-hire assignment in the CEI parts department. Aerotek and CEI approved the request and Mr. Barrow commenced working in the parts department on October 8, 2018. Mr. Barrow's work hours in the parts department were 8:00 a.m. to 5:30 p.m. At the time Mr. Barrow transitioned to the parts department duties, he advised CEI and Aerotek that he was only interested in moving to the parts department position if CEI would still make its decision regarding whether to hire him as a direct employee by the six-month point in his work for CEI. When the six-month point approached, CEI decided to extend the temp-to-hire assignment for three additional months, rather than to hire Mr. Barrow as a direct employee at that time.

Mr. Barrow notified Aerotek that he was displeased with CEI's decision to extend the temp-to-hire work assignment in lieu of providing Mr. Barrow with permanent employment with CEI. The nine-month point in Mr. Barrow's work for CEI would be February 22, 2019.

Mr. Barrow continued in the CEI assignment until January 30, 2019, when he voluntarily quit the assignment. On January 4, 2019, the CEI human resources manager verbally counseled Mr. Barrow for allegedly spending too much time talking at work. The human resources manager was at that point substituting as the parts department supervisor. Also in early January, the human resources manager commended Mr. Barrow on his work performance and encouraged him to take on additional duties within the parts department. The parts department at CEI was also responsible for shipping and receiving. The human resources manager encouraged Mr. Barrow to become more involved in the shipping and receiving duties. Mr. Barrow had prior work experience in shipping and receiving, was familiar with computer systems used for such work, but was unfamiliar with the computer system CEI used for shipping and receiving. Mr. Barrow was concerned that he had received needed training on the parts department duties and attributed the deficit in training to the human resources manager being insufficiently familiar with parts department operations. The human resources manager thereafter began to have Mr. Barrow assist with inbound sales calls. Mr. Barrow's concern that he was not receiving appropriate training in connection with the enhanced duties increased.

On January 11, 2019, Mr. Barrow decided that he would leave the assignment at CEI. Mr. Barrow contacted Aerotek regarding his concern that the assignment at CEI had not led to permanent employment and that the assignment therefore was not a good investment of his time. Mr. Barrow asked Aerotek to find him a different assignment that would lead to permanent employment. Aerotek told Mr. Barrow that he would need to provide a two-week notice to CEI before Aerotek would be willing to consider him for an assignment with a different client. On January 14, 2019, Mr. Barrow notified CEI that he would be leaving the assignment in two weeks. As the projected last day of the notice period approached, Aerotek had not located a different assignment for Mr. Barrow. Mr. Barrow agreed to stay at CEI for another week. However, when Aerotek had not located a new assignment for Mr. Barrow by January 30, 2019, Mr. Barrow decided to be done with both CEI and Aerotek and gave notice to Aerotek that he was quitting the CEI assignment and Aerotek effective immediately. CEI and Aerotek continued to have the same work available for Mr. Barrow. At the time of the voluntary separation, Mr. Barrow had applied for other employment with a different employer, but had not received an offer or accepted an offer of employment.

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

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

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). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

Iowa Admin. Code r. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record establishes a voluntary quit from the CEI temp-to-hire work assignment and from the Aerotek employment that was without good cause attributable to the employer. The quit from the assignment and from the employment was primarily based on Mr. Barrow's dissatisfaction with the speed with which CEI made a decision, or failed to make a decision, regarding whether to hire Mr. Barrow as a direct employee. During that delay, the conditions of the Aerotek employment remained substantially unchanged. The work hours at CEI did not change. The pay for the work at CEI did not change. Mr. Barrow continued to be

an at-will employee of Aerotek in the same full-time, temp-to-hire CEI work assignment. The work duties had changed in October 2018, but only in response to Mr. Barrow's request to move to a different area of the CEI plant. The minor changes that came in January 2019 were a logical progression of duties connected to learning the parts department work and did not constitute substantial changes in the conditions of the employment. Neither Mr. Barrow's disappointment with the CEI training nor his broader dissatisfaction with the CEI human resources manager's oversight of the parts department rose to the level of an intolerable and/or detrimental working condition that would have prompted a reasonable person to leave the employment. The temp agency's failure to produce a new work assignment within the timeframe dictated by Mr. Barrow, especially in the context of Mr. Barrow's decision to prematurely leave a suitable assignment, did not constitute an intolerable and/or detrimental working condition. Mr. Barrow's dissatisfaction with the CEI work environment and his dissatisfaction with his dealings with Aerotek did not provide good cause to voluntarily quit the employment.

Because the evidence establishes a voluntarily quit without good cause attributable to the employer, Mr. Barrow is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Barrow must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The February 13, 2019, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective January 30, 2019. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs