

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORDAN D THOMAS
Claimant

APPEAL 17A-UI-00552-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK INC
Employer

**OC: 11/13/16
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.28(5) – Quit for Other Employment
Iowa Admin. Code r. 871-23.43(5) – Quit for Other Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 6, 2017, (reference 02) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on February 6, 2017. The claimant participated and testified. The employer participated through Customer Service Associate Karrie Brands.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a laborer from June 7, 2016, until this employment ended on September 15, 2016, when he voluntarily quit. In September 2016 the claimant notified the employer that he was leaving because he found another full time job that paid him more. Claimant immediately began working for the new employer upon resigning his employment with this employer. Claimant remains employed by his subsequent employer, but was temporarily laid off in November 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5(1)a provides:

An individual shall be disqualified for benefits:

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Claimant left his position with the employer to accept another full time position. Claimant began working at his new job the day after he left work with this employer. Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer before being separated from the new employment. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer shall not be charged.

DECISION:

The January 6, 2017, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 246849-000) shall not be charged.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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