

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERICA R PERDUE
Claimant

APPEAL NO. 12A-UI-05985-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK INC
Employer

OC: 04/22/12
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Erica Perdue filed a timely appeal from a representative's decision dated May 16, 2012, reference 01, which denied unemployment insurance benefits. After due notice was issued, a telephone hearing was held on June 14, 2012. The claimant participated. Participating on behalf of the claimant was Jennifer Donovan, attorney at Iowa Legal Aid. The employer participated by Ms. Nicole Finley, payroll/tax technician.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Erica Perdue was employed by Aerotek, Inc. from January 23, 2012, until April 26, 2012, when she voluntarily left employment based upon what she considered to be personal harassment from a supervisor.

Ms. Perdue was assigned to work at the Marsh Company as a temporary insurance assistant and was paid by the hour. Her immediate supervisor was Ms. Alli Holland.

Ms. Perdue left her employment on April 26, 2012, after she concluded she was being unduly and harshly questioned by her immediate supervisor at the client location about absences from work, the claimant's work activities, and whether the claimant was actually attending doctor's appointments scheduled for her.

Based upon the repeated questioning and the demeanor of the questioner, Ms. Perdue felt that the inquiry into her work habits, absences due to pregnancy, and whether she was attending her doctor's appointments went beyond a level of inquiry related to her employment and became personal in nature. When the claimant had repeatedly answered the same questions, Ms. Perdue became increasingly concerned about the interviewer's motives. When the questioning continued in the same manner, Ms. Perdue quit her employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment with good cause attributable to the employer. It does.

Iowa Code section 96.5-1 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.

The evidence in this case clearly establishes that Ms. Perdue left her employment after becoming increasingly dissatisfied with the tenor and nature of questions being presented to her by a supervisor on April 26, 2012. Based upon the repetitive nature of the questioning and the personal nature of the questions asked more than once, the claimant reasonably concluded that the inquiry had gone beyond a level associated with business interests and had become personal in nature and harassing. The claimant therefore left her employment.

The employer's witness in this matter did not possess firsthand information regarding the incidents leading up to the claimant's job separation. Although hearsay evidence is admissible in administrative proceedings, it cannot be accorded the same weight as sworn, direct testimony, provided the sworn, direct testimony is credible and not inherently improbable.

For the reasons stated above, the administrative law judge concludes that the claimant has sustained her burden of proof in establishing that she left employment for no disqualifying reason. Her reasons for leaving were attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated May 16, 2012, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw