

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD L ROBERTS
Claimant

APPEAL NO. 15A-UI-11588-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK INC
Employer

OC: 07/19/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Ronald Roberts, the claimant, filed a timely appeal from a representative's decision dated October 15, 2015, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit work on September 25, 2015 because of a non-work related illness or injury. After due notice was provided, a telephone hearing was held on November 2, 2015. Claimant participated. Although duly notified, the employer did not participate.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant is able and available for work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Ronald Roberts was employed by Aerotek, Inc. from July 31, 2015 until September 25, 2015 when he voluntarily quit employment. Mr. Roberts was employed as a full-time paint line worker/machine operator for the company and was paid by the hour.

Mr. Roberts quit his employment with Aerotek, Inc. on September 25, 2015 when Mr. Roberts believed that it was necessary to quit due to pre-existing medical conditions that made it difficult for Mr. Roberts to continue performing his duties for Aerotek, Inc.

After beginning his employment with Aerotek, Inc., Mr. Roberts experienced difficulty in performing his regular job duties because of pain caused by a previous rotator cuff tear and because of arthritis. In an effort to accommodate Mr. Roberts' pre-existing medical conditions, Aerotek, Inc. moved the claimant to a different job position, however, Mr. Roberts found that he could not perform those duties because they were repetitious.

On September 25, 2015, Mr. Roberts informed his immediate supervisor that he had made a decision to quit employment. The claimant had not been advised to leave his employment by his doctor at that time. Work continued to be available to Mr. Roberts at the time of his leaving.

Mr. Roberts continues to have medical issues with his left arm due to his rotator cuff injury. Claimant has primarily sought work as a farmer's helper although he has looked for other job positions that did not require lifting or repetitious work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause that was attributable to this employer. It does not.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(35) and (36) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

In the case at hand, Mr. Roberts voluntarily quit his employment with Aerotek, Inc. because of a previous non-work injury to his rotator cuff and because of arthritis. At the time of his leaving, Mr. Roberts had not been instructed to leave employment by a licensed and practicing physician and work continued to be available to him. The claimant had been employed by Aerotek, Inc. only for a short period of time and the employer was willing to accommodate Mr. Roberts by transferring him to different work, in an effort to keep Mr. Roberts employed by the company. On September 25, 2015, the claimant made a personal decision to leave employment with Aerotek, Inc. and seek employment in another line of work that Mr. Roberts felt would be more compatible with his rotator cuff injury and arthritis.

While Mr. Roberts' reasons for leaving are undoubtedly good-cause reasons from his personal viewpoint, they are not good-cause reasons that are attributable to the employer and the employer was willing to re-assign Mr. Roberts to different types of work within the organization so that Mr. Roberts' medical condition would not be aggravated by the employment.

Although Mr. Roberts has focused on finding agricultural-type jobs since his leaving his employment with Aerotek, the evidence in the record establishes that Mr. Roberts generally meets the able and available requirements of the Iowa Employment Security Law. Mr. Roberts is required to make contacts with perspective employers each week that he claims unemployment insurance benefits and the claimant is expected to expand his job search and lessen any restrictions on the type of work that he would accept as time progresses.

Because the claimant left employment without good cause that was attributable to the employer, he is disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated October 15, 2015, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs