

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA M STRAIT
Claimant

APPEAL NO: 13A-UI-00478-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK INC
Employer

OC: 12/16/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Anna M. Strait (claimant) appealed a representative's January 10, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Aerotek, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 26, 2013. The claimant participated in the hearing. Alexandria Cannistra appeared on the employer's behalf and presented testimony from one other witness, Ellen Carlson. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant's first and only assignment began on October 31, 2011. Her last day on the assignment was on or about August 31, 2012. The assignment ended because the claimant abandoned the assignment.

From about May through July the claimant had been working with a group of coworkers that included two coworkers who harassed and threatened the claimant and others. The claimant was experiencing symptoms of anxiety attacks when she was at work. While the employer's account coordinator, Carlson, met monthly with the claimant, the claimant had never mentioned any problems she was having in the workplace, even though the claimant had met with Carlson most recently on July 31. On August 1 the claimant determined she could no longer handle the issues with the two coworkers and walked off the job. She indicated to another coworker that she could not tolerate the treatment anymore and was leaving. That coworker reported the

situation and the claimant's leaving to a supervisor with the business client, who then informed Carlson.

The business client discharged the two coworkers who had been harassing the claimant and others. Carlson spoke with the claimant and indicated that the two coworkers were gone. The claimant agreed to and then did return to the assignment on August 2.

The claimant found that she still felt very embarrassed in working in the work place, particularly when other coworkers would want to talk with her about what had happened with the two prior coworkers. She was still experiencing symptoms of anxiety attacks when she was at work. However, she did not contact Carlson or anyone else with the employer to inform them that she was still having problems in the workplace and that she felt something further needed to be done. Rather, after August 31 the claimant ceased reporting for work, having decided not to continue in the position. She did not respond to attempts by the employer to contact her.

The claimant established an unemployment insurance benefit year effective December 16, 2012. Her weekly benefit amount was calculated to be \$276.00. While she has had other employment since August 31, 2012, those wages have not yet totaled at least \$2,760.00.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2.

Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Further, before quitting she did not inform the employer of the continued problem and inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Leaving because of known unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a coworker is not good cause. 871 IAC 24.25(21), (6). The claimant has not provided sufficient evidence to conclude

that after the two harassing coworkers were removed that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's January 10, 2013 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of August 31, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs