

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TAKISHA L ROBINSON
Claimant

APPEAL NO. 18A-UI-02504-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEROTEK INC
Employer

OC: 02/04/18
Claimant: Appellant (1)

Section 96.5-1-d - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Takisha Robinson (claimant) appealed a representative's February 21, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Aerotek (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 20, 2018. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary agency. The claimant performed services from November 20, 2016, to February 4, 2018, as a full-time vault clerk assigned to work at U.S. Bank. As part of her duties the claimant had to climb a step ladder and pull files.

In late December 2017, the claimant became dizzy at work and went by ambulance to the hospital. She was diagnosed with vertigo and given medication. Her doctor suggested she go to physical therapy. The claimant has not arranged for therapy as of yet. Her physician did not restrict her work activity. Nor did she indicate that she should stop working. On February 5, 2018, the claimant told the employer she could not work for U.S. Bank any longer because she was worried about climbing. Continued work was available with U.S. Bank had the claimant not resigned her position.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work due to a medical condition but it was not under the advice of her physician. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's February 21, 2018, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs