

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOZETTA G JOHNSON
Claimant

AEROTEK INC
Employer

APPEAL 20A-UI-09108-BH-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/17/20
Claimant: Appellant (2)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer
Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Lozetta G. Johnson, appealed the July 23, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Johnson voluntarily quit her job with Aerotek, Inc. (Aerotek) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on September 14, 2020. Johnson participated personally and testified. Aerotek did not participate.

ISSUES:

Was Johnson's separation from employment with Aerotek a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Aerotek hired Johnson in or around 2018. Johnson worked full time in housekeeping, cleaning hospitals. Johnson resigned on or about May 17, 2020, because she was cleaning hospital rooms with COVID-19 patients in them. Aerotek provided Johnson a cloth mask to wearing; however, it did not provide her with a medical grade mask for protection. Johnson voiced her safety concerns to Aerotek. Ultimately, she resigned due to unsafe working conditions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Johnson voluntarily left employment with Aerotek with good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit her job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires “real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith.” *Wiese v. Iowa Dep’t of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that “common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee’s quit in order to attribute the cause for the termination.” *Id.*

According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp’t Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Emp’t Sec. Comm’n*, 76 N.W.2d 787, 788 (Iowa 1956).

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) *a* through *j* and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 871-24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.26(6), quitting due to unsafe working conditions constitutes quitting with good cause attributable to the employer.

Here, the evidence shows that Johnson’s job duties including cleaning hospital rooms, some of which had patients with COVID-19 in them. Aerotek provided Johnson a cloth mask to wear. However, Aerotek did not provide a medical-grade face-covering to Johnson. She quit because of the safety hazard created by working in rooms with COVID-19 patients in them and without a medical-grade face-covering.

For these reasons, the record establishes Johnson quit due to unsafe working conditions. She therefore quit with good cause attributable to the employer under Iowa Code section 96.5(1) and rule 871-24.26(6). Johnson is therefore entitled to benefits, provided she is otherwise eligible under the law.

DECISION:

The July 23, 2020 (reference 01) unemployment insurance decision is reversed. Johnson voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided Johnson is otherwise eligible under the law.

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a stylized flourish extending from the end.

Ben Humphrey
Administrative Law Judge

September 16, 2020
Decision Dated and Mailed

bh/sam