

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN R KRAKLIO

Claimant

APPEAL NO. 06A-UI-10588-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRUS CONSTRUCTION LLC

Employer

**OC: 10/01/06 R: 04
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated October 26, 2006, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 14, 2006. Claimant participated personally with witness Konrad Kraklio. Employer participated by Judith Herrmann, Attorney at Law, with witness Chad Brus, LLP Member. Exhibits One through Four and A were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on August 31, 2006. Claimant went off work under doctor's orders. Claimant was a full-time employee. Claimant was discharged from medical care effective September 25, 2006. Claimant called the employer to ask for further work. No further work was available on a full-time basis. Claimant was offered work for about one to four days a week. The same or substantially similar work was not available.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because of a change in business conduct that occurred while claimant was off work. The same or similar work was not available after claimant was discharged from medical care. This is a quit for cause attributable to employer, as full-time work was not available. Claimant was offered what appeared to be an on-call and as-needed position. Benefits allowed.

Iowa Code section 96.5-1-d 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. 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.

DECISION:

The decision of the representative dated October 26, 2006, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw