

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BARBARA J RICHE**  
Claimant

**APPEAL NO. 08A-UI-07605-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FBG SERVICE CORP**  
Employer

**OC: 07/20/08 R: 01  
Claimant: Appellant (1)**

Section 96.5(1)d – Quit/Medical

**STATEMENT OF THE CASE:**

The claimant, Barbara Riche, filed an appeal from a decision dated August 13, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on September 8, 2008. The claimant participated on her own behalf. The employer, FBG Service, participated by Program Manager Dave Kerry and was represented by TALX in the person of Jennifer Coe.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Barbara Riches was employed by FBG Service from October 15, 2007 until July 16, 2008 as a full-time cleaning specialist. She had been on light duty for at least a month for a non-work-related medical condition. The claimant notified her supervisor Joseph Palmer and Program Manager Dave Kerry she had to have surgery for this and was told to check with the human resources department to see if she qualified for FMLA. She did not qualify as she had not worked there for at least a year and so resigned in order to have the surgery.

The surgery was scheduled for July 22, 2008, but did not occur because of her high blood pressure and has not been performed as of the date of the hearing. Ms. Riche has not returned to the employer to request to return to work with her current restrictions until she has the surgery.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant quit for a non-work-related medical condition. The resignation was because she did not qualify for FMLA and did not expect to be able to continue working for some weeks after the planned surgery. She has not returned to her employer with a release from her doctor to be able to return to work without restrictions. Under the provisions of the above Code section this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of August 13, 2008, reference 01, is affirmed. Barbara Riche is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/css