

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRITTANY R HOING
Claimant

APPEAL NO. 08A-UI-05435-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MINUTEMAN INC
Employer

OC: 05/04/08 R: 02
Claimant: Appellant (1)

Section 96.5(1)d – Quit/Medical

STATEMENT OF THE CASE:

The claimant, Brittany Hoing, filed an appeal from a decision dated June 2, 2008, reference 03. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 24, 2008. The claimant participated on her own behalf and with a witness John Gibson. The employer, Minuteman, participated by Owner Ed Gifford and Manager Megan Bessman.

ISSUE:

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

FINDINGS OF FACT:

Brittany Hoing was employed by Minuteman from February 28 until April 28, 2008, as a full-time customer service representative. She was pregnant and having back problems as a result, and seeing a chiropractor and taking physical therapy to try and alleviate the pain. The claimant told Owner Ed Gifford she could not stand for long periods of time and was uncomfortable with the moving around and lifting she had to do as an ordinary part of her job. Although her doctors had given her excuses for missing specific days of work, no one had recommended she quit her job. She notified the employer she could not continue working.

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 because of medical problems associated with her pregnancy. However, she did not do so with the recommendation of her doctor but on her own. She has not indicated whether her medical problems have been resolved but she has not returned to the employer and offer to return to work. 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 June 2, 2008, reference 03, is affirmed. Brittany Hoing 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