

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDAN T RABON

Claimant

APPEAL NO. 08A-UI-01438-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEDIACOM COMMUNICATIONS

Employer

**OC: 01/06/08 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 31, 2008, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 26, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Erin Publow participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked for the employer as a part-time telemarketing agent from June 9, 2005, to November 21, 2007. The claimant was informed and understood that under the employer's work rules, employees were required to personally notify their supervisor before the start of their shift if they were not able to work as scheduled and would be considered to have voluntarily quit employment after three days of absence without notice to the employer.

The claimant was scheduled to work November 26, 27, 28, 29, and 30, 2007. The claimant was arrested and in jail starting on November 25. She was charged with willful injury and was not able to get out of jail on bond for 45 days. Because of restrictions in the jail, the claimant could not directly call her supervisor, so she had a friend call her supervisor some time on November 26, 2007, to let him know that she was in jail and did not know when she would be released. The claimant was absent from work without further notice to the employer.

On November 30, 2007, the employer sent notice to the claimant that she was considered to have abandoned her job after missing work without personally notifying her supervisor November 26, 27, 28, 29, and 30, 2007.

The claimant got out of jail on January 8, 2008. She has pleaded not guilty to the charge against her but has not gone to trial.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 96.5-1 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.

Under the unemployment insurance rules, a claimant who is absent from work on three consecutive workdays without properly notifying the employer in violation of a work rule, is presumed to voluntarily quit employment without good cause attributable to the employer. 871 IAC 24.25(4). Additionally, a claimant who becomes incarcerated is presumed to voluntarily quit employment without good cause attributable to the employer. 871 IAC 24.25(16).

Under these rules, the claimant is presumed to have voluntarily quit employment without good cause attributable to the employer. The claimant was gone for 45 days and never had any personal contact with her supervisor. She did not obtain a leave of absence that would have secured her job. In addition, the reason she left was due to being incarcerated, which would not provide good cause for leaving employment.

DECISION:

The unemployment insurance decision dated January 31, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw