

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSALOA G PEREZ

Claimant

APPEAL NO. 11A-UI-05861-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COUNCIL BLUFFS PAYROLL COMPANY

COUNCIL BLUFFS

Employer

OC: 03/13/11

Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 20, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 26, 2011. Claimant did not participate, having failed to respond to the hearing notice. Employer participated by Mollie Cook. Employer Exhibits A-D were received into evidence for the record.

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 considered all of the evidence in the record, finds: Claimant last worked for the employer on or about February 19, 2011. After that he called off work for awhile. The claimant was a no call/no show to the employment on March 5-9, 2011. The employer has a rule that a three-day no call/no show is considered a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

871 IAC 24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an

employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The record does not establish that the claimant quit with good cause attributable to the employer when he was a 3 day no call/no show when the company had a rule that such is a voluntary quit.

DECISION:

The decision of the representative dated April 20, 2011, reference 01, is reversed and remanded. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. The issue of an overpayment of benefits is remanded to claims for a determination.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs