

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: April Prugh was employed by Covenant from March 10, 2003 until August 12, 2005. She was a full-time housekeeper. At the time of hire the claimant received a copy of the employee handbook, which included the attendance policy. That policy states in part that any employee who is no-call/no-show for work twice in one 12-month period will be considered a voluntary quit.

Ms. Prugh was no-call/no-show to work on December 4, 2004. The employer considered her a no-call/no-show to work on August 11, 2005, because there was no message on the "sick line" for that day. The claimant maintained she did call in and also had a doctor's excuse for that day. However, when she came in the next day, August 12, 2005, she was told her employment was "terminated" due to being no-call/no-show to work twice in one year.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

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.

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 section 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 section 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 employer's policy is that an employee is considered a voluntary quit after two no call/no-shows in one 12-month period. However, for purposes of unemployment benefits, the above Administrative Code section requires three no-call/no-shows to be considered a voluntary quit without good cause attributable to the employer. As the claimant has not met this criteria, disqualification may not be imposed.

#### DECISION:

The representative's decision of August 31, 2005, reference 01, is reversed. April Prugh is qualified for benefits provided she is otherwise eligible.

bgh/kjw