

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDY C REASON**  
Claimant

**APPEAL NO. 11A-EUCU-00488-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BUY RITE FOODS INC**  
Employer

**OC: 03/21/10**  
**Claimant: Appellant (2)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Brandy Reason, filed an appeal from a decision dated May 9, 2011, reference 05. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 13, 2011. The claimant participated on her own behalf. The employer, Buy Rite, participated by President Eric Wahlman.

**ISSUE:**

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

**FINDINGS OF FACT:**

Brandy Reason was employed by Buy Rite from April 5, 2010 until May 31, 2010 as a part-time deli clerk. She had been warned by Manager Deb Whitrock about tardiness and absenteeism during the week. The claimant was a full-time student and had been scheduled to start at a time when she was still in class.

After the warning, the manager scheduled Ms. Reason for weekends only and she agreed. She worked May 28, 2010, but the employer maintained she was no-call/no-show on May 29 and 30, 2010. Ms. Reason did miss work on May 29, 2010, but called the manager a few hours before her shift was to start to say she would be absent. She had been in Des Moines, Iowa, to talk with her lawyer and her car broke down, so she could not get back to town. The manager informed her at that time she was being taken off the schedule.

Buy Rite has an employee handbook, which the claimant received. The attendance policy states three days of no-call/no-show to work is considered a voluntary quit.

**REASONING AND CONCLUSIONS OF LAW:**

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 considered the claimant to be a voluntary quit because she was no-call/no-show to work for two days, although the record does not support this. A voluntary quit for being no-call/no-show for one day is contrary not only to Iowa law, but the employer's own attendance policy. The claimant maintained she called prior to her shift on May 29, 2010, and notified the manager she would be absent and cannot therefore be considered a no-call/no-show for that day, either. The employer did not provide any rebuttal testimony from the manager regarding the call-in on May 29, 2010, so Ms. Reason cannot be considered a no-call/no-show even for that one day.

The record establishes the claimant was not a no-call/no-show for work for three days and was therefore not a voluntary quit under Iowa law or the employer's own policy. There is no evidence of misconduct provided by the employer to establish a discharge. Disqualification may not be imposed.

**DECISION:**

The representative's decision of May 9, 2011, reference 05, is reversed. Brandy Reason is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw