

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STRASSER, CHRISTOPHER, W
Claimant

APPEAL NO. 11A-UI-05517-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & CO
Employer

**OC: 03/13/11
Claimant: Appellant (2)**

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Christopher Strasser filed a timely appeal from the April 22, 2011, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on May 19, 2010. Mr. Strasser participated. Bridget Clark represented the employer and presented additional testimony through Jody Karge. Exhibits One, Two, Three, and A were received into evidence.

ISSUES:

Whether Mr. Strasser voluntarily quit the employment with Sears for good cause attributable to the employer.

Whether Mr. Strasser voluntarily quit the employment with Sears for the sole purpose of accepting other or better employment and performed work for the new employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Christopher Strasser was employed by Sears Roebuck and Company as a full-time salesperson from 2008 until February 26, 2011, when he voluntarily quit to accept a part-time paid internship. Sears continued to have work available to Mr. Strasser at the time he separated from the employment. Mr. Strasser hoped the part-time paid internship would lead to full-time employment. It did not. Mr. Strasser did perform work for the new employer, but was involuntarily separated from the new employment on March 16, 2011.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, *and the individual performed services in the new employment*. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

[Emphasis added.]

The administrative law judge must follow the plain language of the statute.

Mr. Strasser voluntarily quit the Sears employment without good cause attributable to the employer. Sears account with Workforce Development will not be charged for benefits paid to Mr. Strasser. Mr. Strasser voluntarily quit the Sears employment for the sole purpose of accepting other employment and performed work for the new employer. Accordingly, Mr. Strasser's separation from Sears did not disqualify him for unemployment insurance benefits. Mr. Strasser is eligible for benefits, provided he meets all other eligibility requirements.

DECISION:

The Agency representative's April 22, 2011, reference 02, decision is reversed. The claimant voluntarily quit the Sears employment without good cause attributable to the employer to accept other employment. The employer's account will not be charged. The claimant is eligible for benefits, provided he meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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