

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SYLVIA R WILLIAMS
394 – 17TH ST SE
CEDAR RAPIDS IA 52403

SEARS ROEBUCK & CO
C/O TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-283

Appeal Number: 05A-UI-02252-JTT
OC: 01/30/05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
871 IAC 24.26(1) – Change in the Contract of Hire

STATEMENT OF THE CASE:

Sears filed a timely appeal from the March 1, 2005, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on March 1, 2005. Sylvia Williams participated in the hearing. Sears participated through General Manager Rod Mochal.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Sylvia Williams was employed by Sears as a part-time cashier from August 17, 2004 until January 9, 2005, when she voluntarily quit. Prior to the 2004 Christmas shopping season, Ms. Williams averaged 15 to 25 hours per week. During the Christmas shopping season, Ms. Williams

averaged 25 to 35 hours per week. During the week after Christmas, Ms. Williams was scheduled for only 4 to 6 hours. Ms. Williams needed and wanted to continue working the hours she had been provided prior to the Christmas season. Sears had hired a number of seasonal cashiers, which it did not let go until after the first of the year. As a result of the number of cashiers, all cashiers' hours were drastically cut during the week after Christmas. Ms. Williams quit due to the reduction in hours. Ms. Williams gave her notice that she was going to quit on or about December 31 or January 2, after she noticed a sign that indicated employees who had not been getting customers to apply for Sears credit would not be scheduled for hours. Ms. Williams had not had great success in securing credit applications. Ms. Williams had not been advised at the time of hire that her hours would be contingent upon securing credit applications.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Williams' voluntary quit was for good cause attributable to the employer. It does.

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record establishes a substantial reduction in Ms. Williams' hours of employment, effective the week after Christmas, with a corresponding reduction in pay. This constituted a change in the contract of hire. The sign Ms. Williams observed, which indicated her future hours would be contingent upon securing credit applications, was a further change in the contract of hire. Rather than acquiesce in the change in her contract of hire, Ms. Williams

submitted her resignation. Ms. Williams' quit was for good cause attributable to the employer. Ms. Williams is eligible for benefits, provided she meets all other eligibility requirements.

DECISION:

The Agency representative's decision dated March 1, 2005, reference 01, is affirmed. The claimant quit for good cause attributable to the employer. The claimant is eligible for benefits, provided she meets all other eligibility requirements.

jt/s