

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSALIND D DRAYTON
Claimant

APPEAL NO. 11A-UI-03249-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & COMPANY
Employer

OC: 01/23/11
Claimant: Respondent (2/R)

Section 96.5-1 - Voluntary Quit
Section 96.5-1-c - Voluntary Quit for Care of Family Member

STATEMENT OF THE CASE:

Sears Roebuck & Company (employer) appealed a representative's March 7, 2011 decision (reference 01) that concluded Rosalind Drayton (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 5, 2011. The claimant participated personally. The employer participated by Bridget Clark, Human Resources Manager; Mark Underwood, Team Manager; and Nicole Ehlers, Human Resources Representative.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 6, 2008, as a full-time sales representative. The claimant's mother suffered an illness on or about December 1, 2010. The claimant notified the employer of the condition and the employer agreed to her absence from work. The claimant moved to South Carolina to care for her mother. The claimant's mother has not sufficiently recovered.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant left work to take care of her mother who is ill. The claimant's mother has not sufficiently recovered and the claimant has not returned to and offered her services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's March 7, 2011 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The issue of the overpayment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs