

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA L STAUB
Claimant

APPEAL NO. 09A-UI-16007-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & CO
Employer

OC: 09/20/09
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Sheila Staub filed a timely appeal from the October 14, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was started on December 1, 2009 and concluded on December 8, 2009. Ms. Staub participated. Bridgette Clark, Human Resources Manager, represented the employer and presented additional testimony through Fred Hoffman, Sales and Service Manager, and Scott Warner, Team Manager for Water Heaters. The administrative law judge took official notice of the documents submitted for or generated in connection with the October 9, 2009 fact-finding interview. Exhibits 4, 23, and 25 through 36 were received into evidence.

ISSUE:

Whether Ms. Staub's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Sheila Staub was employed by Sears, Roebuck & Company as a full-time Water Heater Associate from August 2008 until September 23, 2009, when she voluntarily quit in response to a reprimand. Ms. Staub's immediate supervisor was Scott Warner, Team Manager for Water Heaters.

On September 22, 2009, Fred Hoffman, Sales and Service Manager, summoned Ms. Staub to a meeting for the purpose of placing Ms. Staub on a performance improvement plan. The proposed discipline was prompted by coworker complaints that Ms. Staub was disrupting business on the sales floor by too freely discussing her menopause issues and her antipathy for the employer and the workplace. Ms. Staub had been recently and repeatedly counseled for similar conduct. The employer also intended to address customer complaints that Ms. Staub had been rude or lacking in empathy. Ms. Staub had previously been counseled for similar conduct. From the beginning of meeting, Ms. Staub was openly disruptive, hostile, and disrespectful. Mr. Hoffman asked whether, based on her previously and frequently announced negative feelings for the employer, Ms. Staub would like to voluntarily quit the employment. Ms. Staub indicated she would not and that the employer would have to discharge her from the

employment if the employer wanted her to leave. Mr. Hoffman then read the performance improvement plan, which Ms. Staub consistently interrupted and interjected. The meeting ended with Ms. Staub returning to the call floor with the directive that she desist from discussion of her personal and/or medical problems with coworkers on the call floor.

On September 23, Ms. Staub called and left a voice mail message for Mr. Warner. In her message, Ms. Staub mentioned that Mr. Hoffman had offered Ms. Staub the option on September 22 of voluntarily quitting the employment and that she had decided to do that. Ms. Staub asked for directions on how to return her badge. Ms. Staub ended her call with, "This is Sheila Staub and I do voluntarily quit. Good-bye."

The employer continued to have work available to Ms. Staub, but expected her to comply with workplace policies and the terms of the performance improvement plan.

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.

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.

The weight of the evidence in the record indicates that Ms. Staub voluntarily quit in response to a reprimand, in response to a personality conflict with one or more superiors, and due to dissatisfaction with the work environment. Quits for such reasons are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21), (22) and (28). Ms. Staub has not presented sufficient evidence to overcome the presumption.

The administrative law judge deduces that Ms. Staub's conduct in the course of the employment was comparable to her conduct in connection with the appeal hearing. Ms. Staub's conduct during the hearing can best be described as belligerent. To begin with, Ms. Staub summarily discarded exhibits that had been provided to her for use at the hearing because she decided they were not important. During the hearing, Ms. Staub interrupted, interjected, made unfounded allegations of judicial bias, and at one point engaged in a vulgar outburst during the employer's testimony. Ms. Staub created her own problems during the hearing and the weight of the evidence indicates she readily created her own problems in the workplace as well. The weight of the evidence fails to support Ms. Staub's allegation that the employer compelled her to resign the employment or that she resigned due to a medical condition the employer allegedly refused to accommodate. The latter allegation was readily refuted by the employer's testimony and questioning of Ms. Staub. The employer merely expected Ms. Staub to conduct herself in a civil, socially appropriate manner. Ms. Staub was unwilling to comply and elected to separate from the employment instead.

Based on the evidence in the law voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Staub is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Staub.

DECISION:

The Agency representative's October 14, 2009, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs