

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW WALTERS
Claimant

APPEAL NO. 09A-UI-15603-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & CO
Employer

OC: 09/13/09
Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Sears, filed an appeal from a decision dated October 6, 2009, reference 01. The decision allowed benefits to the claimant, Matthew Walters. After due notice was issued a hearing was held by telephone conference call on November 18, 2009. The claimant participated on his own behalf. The employer participated by Loss Prevention Manager Kurt Schmalzried.

ISSUE:

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

FINDINGS OF FACT:

Matthew Walters was employed by Sears from November 12, 2008 until September 19, 2009 as a full-time receiving associate. The week of September 14, 2009, the claimant asked his Lead Man David Chavez why he had gotten a 75 cent raise on his last pay check. Mr. Chavez said it was probably because he had been taking training as a preventative maintenance technician at the employer's request, so he could be assigned to other departments. He had not been told, or promised, any raise.

On September 18, 2009, the subject of the raise came up again and Mr. Chavez said the claimant was "probably" going to lose it. Mr. Walters became angry and walked off the job without any permission from his supervisor. He did not check with the operations manager, human resources or payroll to determine what the facts were regarding the raise. The next morning he sent a text to Mr. Chavez saying he was quitting.

The employer has no record of the claimant being given a raise or having any subsequent reduction in his pay.

Matthew Walters has received unemployment benefits since filing a claim with an effective date of September 13, 2009.

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.

The claimant quit because his lead man told him he would “probably” lose the 75 cent per hour raise he had gotten on his prior paycheck. There appears to have been miscommunication in the entire situation. The claimant received a raise he may or may not have been actually entitled to. As nothing was promised to him and he could not specify any reason why he should be given a raise, no evidence exists it was anything other than an error of payroll. Even if it was not, the claimant quit because Mr. Chavez said he would “probably” lose the raise. Mr. Chavez does not work in payroll or human resources and the claimant was not shown any official notice from either of these departments about the raise.

The claimant's decision to quit was based on rumor at best and incorrect information at the worst. As he did not make any attempt whatsoever to find out the facts about whether the raise should have been given to him in the first place or whether, in fact, it was going to be revoked. He does not know whether the supervisor's information was correct. His decision to quit was based on being angry and upset over unsubstantiated statements from a co-worker. This does not constitute good cause attributable to the employer and the claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the

department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of October 6, 2009, reference 01, is reversed. Matthew Walters is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs