

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS D HUNTER
Claimant

APPEAL NO. 09A-UI-01627-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & CO
Employer

**OC: 12/14/08 R: 04
Claimant: Appellant (4)**

Section 96.5(1)g – Voluntary Quit/Requalification

STATEMENT OF THE CASE:

Nicholas Hunter filed an appeal from a representative's decision dated January 26, 2009, reference 01, which denied benefits based on his separation from Sears Roebuck & Company (Sears). After due notice was issued, a hearing was held by telephone on February 23, 2009. Mr. Hunter participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Hunter was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hunter was employed by Sears from September 18, 2007 until March 28, 2008 as a part-time warehouseman. He was never guaranteed any minimum number of hours per week. When he began the employment, he was working from 20 to 25 hours each week. The hours increased slightly during the Christmas holiday in the winter of 2007. After the holiday, all employees suffered a reduction in hours.

Because he was not getting as many hours of work as he needed, Mr. Hunter decided to move back to Hopkinton, Iowa. He gave his supervisor a written note indicating he was quitting for this reason. He did not give the employer any other reason for quitting. He did not discuss the reduction in hours with any member of management and did not tell the employer he would quit if not given more hours.

Mr. Hunter filed a claim for job insurance benefits effective December 14, 2008. He listed his last employer as ATI Global, Inc., where he worked from November 20 until December 11, 2008. He had total gross earnings in excess of ten times his weekly job insurance benefit amount while working for ATI Global, Inc.

REASONING AND CONCLUSIONS OF LAW:

Mr. Hunter voluntarily quit his employment with Sears. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Hunter told the employer he was quitting to move back to Hopkinton. An individual who leaves employment to move to a different locality is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(2).

During the hearing, Mr. Hunter also cited the reduction in hours as a reason for quitting. Since he had not been guaranteed any minimum number of hours per week, the employer was under no obligation to provide any minimum number of hours. Moreover, Mr. Hunter did not make an issue of his hours before quitting. Therefore, he deprived the employer of the opportunity to give him more hours, if possible. After considering all of the evidence, the administrative law judge concludes that he left his employment with Sears for no good cause attributable to the employer.

Although his separation from Sears was a disqualifying event, Mr. Hunter had requalified for benefits when he filed his claim effective December 14, 2008. He has earned at least ten times his weekly job insurance benefit amount in insured wages since leaving Sears. Therefore, he is entitled to benefits pursuant to Iowa Code section 96.5(1)g. Benefits paid to Mr. Hunter as a result of the decision herein shall not be charged to Sears.

DECISION:

The representative's decision dated January 26, 2009, reference 01, is hereby modified. Mr. Hunter left his employment with Sears for no good cause attributable to the employer but had requalified for benefits when he filed his current claim. Benefits are allowed, provided he satisfies all other conditions of eligibility, but shall not be charged to Sears.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css