

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

JUSTIN D LEWIS
1339 E 19TH ST
DES MOINES IA 50316-2703

SEARS ROEBUCK & CO
C/O TALX UCM SVCS INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-03246-DWT
OC: 02/19/06 R: 02
Claimant: Respondent (4)

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-a – Voluntary Quit for Other Employment

STATEMENT OF THE CASE:

Sears Roebuck & Company (employer) appealed a representative's March 7, 2006 decision (reference 01) that concluded Justin D. Lewis (claimant) was qualified to receive unemployment insurance benefits, and the employer's account could be subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 7, 2006. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 1, 2004. The claimant worked in a sales position. Prior to the claimant's employment separation in mid-February 2006, the employer gave the claimant a written warning for attendance problems. After receiving the written warning, the claimant took his mother to Kansas City for a relative's funeral. The claimant told the employer he had to go to Kansas City. About this same time, the claimant accepted another job. The claimant did not return to work after he accepted another job. The claimant received Department Approved Training as of March 18, 2006.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts indicate the claimant ultimately quit his employment because he accepted another job. When a claimant quits because he has accepted other employment, the claimant is qualified to receive unemployment insurance benefits, and the employer's account is not subject to charge. Iowa Code §96.5-1-a. As of February 19, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 7, 2006 decision (reference 01) is modified in the employer's favor. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment after he accepted other employment. As of February 19, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account will not be charged.

dlw/pjs