

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEANNA E GLASS

Claimant

APPEAL NO. 10A-UI-07384-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS ROEBUCK & CO

Employer

OC: 04/18/10

Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 12, 2010, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 8, 2010. Claimant did not participate as she was dropped during the call and did not answer when called back. Employer participated by Cindy Blick, Lead Human Resources; April Staudt, Lead Cashier; and Cathy Hrubetz, Store Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 16, 2009. Claimant was called and told she had to work November 26, 2009. Claimant was not on the schedule and had not worked for ten days. Claimant was listed as part time at below 29 hours per week. Claimant did not get very many hours due to poor work performance. Claimant did not call in to accept a schedule for November 26, 2009. Employer kept claimant on the books until December 2, 2009 when they terminated the employment relationship because claimant did not call in to ask for more work. Employer has no policy on failing to call in and ask for additional work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she completed her last assignment and then did not report back. Claimant was not working a regular schedule. Claimant completed her last scheduled work on November 16, 2009. Since claimant was not on the schedule she was working on call and as needed. The refusal to return from a ten-day layoff is a separation for cause attributable to employer because claimant completed her last assignment.

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.

871 IAC 24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

DECISION:

The decision of the representative dated May 12, 2010, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css