

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

KARI RUEBER
1409 CLARK ST
DES MOINES IA 50314

SEARS ROEBUCK & CO
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-08638-BT
OC: 07/17/05 R: 02
Claimant: Appellant (1)

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 – Voluntary Quit

STATEMENT OF THE CASE:

Kari Rueber (claimant) appealed an unemployment insurance decision dated August 10, 2005, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Sears Roebuck & Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 7, 2005. The claimant participated in the hearing. The employer participated through Melissa Forret, and Sid Bolton, Human Resources Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time on-line care associate from May 17, 2004 through April 14, 2005. She went on a personal leave of absence to attend a treatment center pursuant to a court order. The leave began on January 20, 2005 and expired on April 14, 2005. Towards the end of the leave time, the employer received a message that the claimant wanted to extend her leave for 30 days but no explanation was provided. The claimant also wanted to know if she could reapply at a later time. The employer left the claimant a message that her leave could not be extended but she could reapply for a position.

The claimant testified she had to continue in the treatment center for another 30 days after April 14, 2005 per the treating physician. She never provided medical documentation to the employer nor did she provide the employer with any information as to her status. The employer testified that if the claimant were not medically released to return to work, her leave would have been extended but it would have been under a different program.

The claimant picked up an application from the employer to reapply for a position but she never completed it since she was told that she could receive unemployment insurance benefits. The claimant contends she was not aware that unemployment insurance benefits were given to employees who are not able to find suitable employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated her intent to quit and acted to carry it out when she failed to return to work after her leave of absence expired and failed to provide her employer with any information regarding her status.

Although the claimant requested an extension of her leave of absence, she never advised the employer she would not be returning to work. If she had a medical reason that prevented her from returning to work, it was her obligation to provide the employer with that information. Without that knowledge, the employer could only assume the claimant quit her employment when she did not return to work on April 14, 2005. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated August 10, 2005, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

sdb/pjs