

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

RICHARD A COLLINS
PO BOX 212
KNOXVILLE IA 50138

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

Appeal Number: 06A-UI-01208-DWT
OC: 01/01/06 R: 02
Claimant: Appellant (2)

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:

Richard A. Collins (claimant) appealed a representative's January 31, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Sears Roebuck & Company (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 16, 2006. The claimant participated in the hearing. Joseph Piseski, the district human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for disqualifying reasons?

FINDINGS OF FACT:

The claimant started working for the employer again on February 28, 2005. The claimant worked as a full-time service technician. About two years earlier, the employer had to layoff the claimant for lack of work. This "temporary" layoff turned into a two-year layoff. The claimant was driving truck when the employer called and asked him to return to work in February 2005.

In September 2005, the employer's work slowed down and the claimant's hours were reduced. Instead of working 80 hours in a two-week period, from approximately September 1 through 15, the claimant only worked 65 hours. The last two weeks in September the claimant worked 31 hours.

When the claimant's hours were reduced, the employer encouraged the claimant to file a claim for unemployment insurance benefits. The claimant received information from his local Workforce office that he was not eligible to receive unemployment insurance benefits until January 2006. The claimant then informed the employer he could not meet his financial needs with his hours reduced. The claimant's supervisor, J.H., suggested that the claimant transfer. When asked where he would like to transfer, the claimant indicated Rochester, New York, because he had family in New York. J.H. checked to see if a store in Rochester, New York, had a position available for the claimant to transfer.

When J.H. did not receive any response to his inquiries about a transfer, he advised the claimant to go to New York, personally talk to the human resource representative and then contact J.H. and he would send the necessary paperwork for the transfer. The claimant then started packing up to move. The claimant's wife resigned her job. When the claimant was ready to move, J.H. still had not received any response from the Rochester, New York store where the claimant wanted to transfer. The claimant did not work for the employer after October 5, 2005.

The claimant went to the Rochester, New York store and learned he could start immediately once the employer sent the necessary paperwork. The Rochester store, however, received information that the claimant had been terminated from the store he had worked at in Iowa. As a result of being terminated, the claimant had to wait 60 days before the Rochester store would consider hiring him. When the Rochester store finally told the claimant it did not plan to hire any new employees in the spring, the claimant and his family came back to Iowa.

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 establish the claimant voluntarily left his employment in Iowa on October 5, 2005. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. The law also states that if a claimant quits employment because he has left to accept other employment, the

claimant is not disqualified from receiving unemployment insurance benefits, and the employer's account will not be charged. Iowa Code §96.5-1-a.

A preponderance of the credible evidence establishes J.H. initiated the transfer idea. After the claimant indicated he would not mind transferring to New York to be closer to his father, he relied on J.H.'s assurance that he could transfer to a store in New York. The claimant's wife resigned her job and the claimant and his family went to New York so the claimant could work full time. Under the facts of this case, the claimant quit his employment to accept a job in Rochester, New York. The fact the Rochester, New York employer did not ultimately hire the claimant does not change a quit for other employment into a disqualifying separation. 871 IAC 24.28(4). As a result, the claimant is qualified to receive unemployment insurance benefits as of January 1, 2006.

DECISION:

The representative's January 31, 2006 decision (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits as of January 1, 2006. The employer's account will not be charged.

dlw/s