

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA S WILSON**

Claimant

**APPEAL NO. 09A-UI-06091-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEARS ROEBUCK & CO**

Employer

**OC: 03/15/09**

**Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated April 7, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 14, 2009. Claimant participated. Employer participated by Karry Benson.

**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 worked part time for the employer. Claimant had a non-work-related injury in December 2008. She was off for two weeks. When she came back to work in January, she worked two days the 8th and 9th. Her supervisor told her her hours were going to be reduced. The claimant called and left a number of messages for her supervisor, Kerry Benson, to find out what hours she was to work. Ms Benson did not return her calls. The schedule was posted in a book at the store and on line as required by company policy. The claimant's supervisor would alter the schedule frequently and it was the practice of the claimant and her supervisor for the supervisor to tell the claimant her schedule. The claimant and her supervisor saw each other away from work and the claimant was told to call her supervisor at work. The claimant attempted to call her and got no response. The claimant then filed for unemployment.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

- a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2) (amended 1998). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The record shows the claimant following her established practices, repeatedly tried to contact her supervisor. The supervisor did not respond and let her know when she could return to work. The claimant did not intend to sever her employment relationship. 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 the employer failed to offer her any work.

**DECISION:**

The decision of the representative dated April 7, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

jfe/pjs