

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAKESHIA L RUSSELL**  
Claimant

**APPEAL NO: 13A-UI-13476-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEARS ROEBUCK & CO**  
Employer

**OC: 11/03/13**  
**Claimant: Appellant (4/R)**

871 IAC 24.23(10) – Leave of Absence

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 9, 2013 determination (reference 01) that held her ineligible to receive benefits as of November 3, 2013, because she requested and was granted a leave of absence. The claimant participated at the January 2, 2014 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is eligible to receive benefits for the weeks ending November 9 through 30 and is ineligible December 1 through 21, 2013.

**ISSUE:**

Did the claimant request a leave of absence?

**FINDINGS OF FACT:**

The claimant started working for the employer in January 2008. The last day she worked was October 13, 2013.

In October 2013, the claimant's home was raided by law enforcement officials. Five days later she was arrested and charged. While the claimant was in jail, someone on her behalf notified the employer that she was unable to work. After the claimant was released from jail, she told the employer what had happened. The claimant told her manager she wanted to come back to work. The employer's corporate office put the claimant on a personal leave of absence so the charges could be resolved before she returned to work.

The claimant went to a scheduled court hearing on December 2, but her case was continued until December 19. She then asked the employer to extend her leave of absence to December 20; because her next scheduled court date was December 19, 2013. On December 19, the claimant's case was postponed until January 2, 2014. The employer did not give the claimant any more extensions and ended her employment on December 23, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

When a claimant requests and is granted a leave of absence, the claimant is considered to be voluntarily unemployed and is not eligible to receive benefits. 871 IAC 24.23(10).

Initially, the employer placed the claimant on a leave of absence from November 3 through December 3, 2013. When the claimant's December 2 court date was continued to December 19, she asked the employer to extend her leave of absence to December 20, 2013. The employer granted this request. After the claimant's December 19 court date was continued to January 2, 2014, the employer then ended the claimant's employment on December 23, 2013.

The employer placed the claimant on a leave of absence from November 3 through December 2, 2013. The claimant asked the employer about returning to work and was available to work during this time, but the employer wanted the claimant's legal issues resolved before she returned to work. For the weeks ending November 9 through November 30, 2013, the claimant is eligible to receive benefits because she did not request the leave of absence.

After the claimant's December 2 court date was continued to December 19, she requested that her leave of absence be extended to December 20. The employer approved extending her leave to December 20. Since the claimant requested that her leave of absence be extended, she is not eligible to receive benefits from December 1 through 21, 2013.

On December 23, the employer discharged the claimant. This matter will be remanded to the Claims Section to determine if the reason for the claimant's December 23 employment separation qualifies or disqualifies her from receiving benefits.

**DECISION:**

The representative's December 9, 2013 determination (reference 01) is modified in the claimant's favor. The claimant is eligible to receive benefits for the weeks ending November 9 through 30, 2013, because she wanted to work, but the employer put her on a personal leave of absence. The claimant is not eligible to receive benefits for the weeks ending December 2 through 21, 2013, because she requested that her leave of absence be extended to December 20.

This matter is **Remanded** to the Claims Section to determine if the claimant's December 23 employment separation is for disqualifying or non-disqualifying reasons.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs