

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBRA J ABRAHAM**  
Claimant

**APPEAL NO. 11A-UI-08202-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEARS ROEBUCK & CO**  
Employer

**OC: 03/13/11  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit  
Section 96.6(2) – Timeliness of Appeals

**STATEMENT OF THE CASE:**

Debra Abraham filed an appeal from a representative's decision dated June 7, 2011, reference 01, which denied benefits based on her separation from Sears Roebuck & Company. After due notice was issued, a hearing was held by telephone on July 15, 2011. Ms. Abraham participated personally. The employer participated by Bridget Clark, Human Resources Manager, and Fred Hoffman, Sales and Service Manager. Exhibit One was admitted on the employer's behalf.

**ISSUE:**

The first issue is whether Ms. Abraham's appeal should be considered timely filed. If the appeal is determined to be timely, the issue then becomes whether she was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Abraham at her address of record on June 7, 2011. She received the decision and, at some point after that, contacted her local office as to how to appeal. She was left with the belief that she had to file her appeal in person. Ms. Abraham did not read the instructions for appealing as found on the decision itself. She was living in Indiana at the time and filed her appeal at a local office in Iowa on June 21, 2011.

Ms. Abraham began working for Sears on July 29, 2010 as a full-time telephone sales and service representative in Des Moines, Iowa. She voluntarily quit on March 17, 2011 to relocate to Indiana to take care of her ill husband. She had received paperwork from the employer to apply for a leave of absence but never completed the forms. She did request assistance from the human resources department in completing the forms. She was directed to speak to the lead benefits administrator if she had questions regarding the form. The employer sent Ms. Abraham periodic reminders that she had not yet submitted the application to take time off.

A completed application was never submitted. Continued work would have been available if she had not quit.

**REASONING AND CONCLUSIONS OF LAW:**

A party has ten days in which to appeal from a representative's decision. Iowa Code section 96.6(2). The instructions for appealing are clearly outlined on the reverse of the decision. Rather than reading those instructions, Ms. Abraham contacted her local office. There is nothing to establish that she was not, in fact, given misinformation by her local office. Any doubt will be resolved in her favor. The appeal shall be deemed timely filed. As such, the administrative law judge had jurisdiction over the separation issue.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Abraham quit her job with Sears because she was moving to a different state to care for her ill husband. An individual who leaves work due to serious family needs or responsibilities is presumed to have left without good cause attributable to the employer. 871 IAC 24.25(23). Although Ms. Abraham had good personal cause for leaving her job, her reason was not attributable to the employer.

The administrative law judge has considered the fact that Ms. Abraham attempted to take a leave of absence rather than quit. However, she did not make a good-faith effort to submit a leave application. She was sent reminders when she failed to return the application within a reasonable amount of time. She knew she was to contact the lead benefit administrator if she had questions regarding the application. Inasmuch as no completed application was received by the employer, there was no decision to make regarding whether to grant the leave. The evidence as a whole failed to establish any good cause attributable to the employer for the separation. As such, benefits are denied.

**DECISION:**

The representative's decision dated June 7, 2011, reference 01, is hereby affirmed. Ms. Abraham quit her employment with Sears without good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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