

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROXANN R ROMAN**  
Claimant

**APPEAL NO: 12A-UI-14508-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEARS ROEBUCK & CO**  
Employer

**OC: 11/04/12**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
871 IAC 24.22(2)j – Leave of Absence

**STATEMENT OF THE CASE:**

Roxann R. Roman (claimant) appealed a representative's December 3, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Sears, Roebuck & Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 14, 2013. The claimant participated in the hearing. Justin Crick appeared on the employer's behalf and presented testimony from one other witness, Renee Lewis. During the hearing, Employer's Exhibits One, Two, and Three and Claimant's Exhibit A were entered into evidence. 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:**

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on July 13, 2009. She worked full time as a water heater sales and service representative. Her last day of work was June 15, 2012. She went on a leave of absence as of June 18, 2012 to be with her brother in Michigan who was undergoing some surgeries. The leave expired on September 27, 2012. The claimant did not return to work, nor did she communicate with the employer regarding returning for work. She established an unemployment insurance benefit year effective November 4, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not eligible for unemployment insurance benefits if she quit the employment without good cause attributable to the employer or was discharged for work-connected misconduct. A voluntary quit is a termination of employment initiated by the employee – where the employee has instigated the action which directly results in the separation; a discharge is a

termination of employment initiated by the employer – where the employer has instigated the action which directly results in the separation from employment. 871 IAC 24.1(113)(b), (c). A mutually agreed-upon leave of absence is deemed a period of voluntary unemployment. 871 IAC 24.22(2)j. However, if the end of the leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits, and conversely, if at the end of the leave of absence the employee fails to return at the end of the leave of absence and subsequently becomes unemployed the employee is considered as having voluntarily quit and therefore is ineligible for benefits. *Id.*

Here, the claimant failed to return at the end of the leave of absence, and is therefore deemed to have voluntarily quit the employment. The claimant therefore has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code §96.6-2. The claimant has not satisfied her burden. Benefits are denied.

**DECISION:**

The representative's December 3, 2012 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 4, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs