

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GHEREMY J HARRISON
Claimant

APPEAL NO. 11A-UI-06376-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 04/10/11
Claimant: Appellant (2)

871 IAC 24.1(113) – Other Separations

STATEMENT OF THE CASE:

Gheremy Harrison filed a timely appeal from the May 6, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 9, 2011. Mr. Harrison participated. Monica Bloom-Ensminger represented the employer.

ISSUE:

Whether the claimant separated from the employment for a reason that makes him ineligible for unemployment insurance benefits.

Whether the employer's account may be charged for benefits paid to the claimant.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Gheremy Harrison was employed by Stream International as a full-time customer service representative from June 2010 until April 15, 2011. Mr. Harrison is in the National Guard. While Mr. Harrison worked for Stream International in Sergeant Bluff, he was assigned to a National Guard unit in Sergeant Bluff. Mr. Harrison separated from the employment at Stream International solely because he had been ordered by the military to report to a base in Tampa, Florida, in preparation for a deployment to South Korea.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code section 871 IAC 24.1(113), provides as follows:

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of

laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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.

Under Iowa Administrative Code section 871 IAC 24.1(113), Mr. Harrison's separation from Stream International was not a voluntary quit, but instead fell within the category known as "other separations." Mr. Harrison is eligible for benefits. Because there was neither a *voluntary* quit nor a discharge for misconduct, the employer's account may be charged for benefits paid to Mr. Harrison.

DECISION:

The Agency representative's May 6, 2011, reference 01, decision is reversed. The employment terminated due to military duty lasting or expected to last more than 30 calendar days and fell within the "other separations" category. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw