

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN J OLSEN**

Claimant

**APPEAL NO. 14A-UI-09577-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**

Employer

**OC: 08/17/14**

**Claimant: Appellant (1-R)**

871 IAC 24.25(8) – Leave of Absence in Connection with Military Service

**STATEMENT OF THE CASE:**

Steven Olsen filed a timely appeal from the September 12, 2014, reference 01, decision that denied benefits effective August 17, 2014, based on an Agency conclusion that Mr. Olsen was on an approved leave of absence. After due notice was issued, a hearing was held on October 6, 2014. Mr. Olsen participated. The employer provided written notice on October 1, 2014 that the employer was waiving its participation in the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 14A-UI-09578-JTT. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibit A into evidence.

**ISSUE:**

Whether Mr. Olsen has been on an approved leave of absence since he established his claim for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Steven Olsen commenced his full-time position with Wells Fargo Bank North America in January 2013 and last performed work for that employer on July 7, 2013. Mr. Olsen had worked for the employer as a home mortgage consultant. Mr. Olsen's compensation was primarily commission based, though he also received a base salary. At the time Mr. Olsen worked for Wells Fargo Bank, he was a member of the United States Army Reserve. On July 3, 2013, Mr. Olsen received military orders deploying him active military duty. On July 30, 2014, Mr. Olsen was deployed to active duty in Kuwait. While Mr. Olsen was on active military duty, he kept the employer apprised of his circumstances. Mr. Olsen was honorably discharged from active military duty on August 15, 2014.

Mr. Olsen established a claim for unemployment insurance benefits that was effective August 17, 2014. Mr. Olsen received unemployment insurance benefits for the three-week period of August 17, 2014 through September 6, 2014. For each of those weeks, Mr. Olsen received \$170 in regular state unemployment insurance benefits and \$341 in benefits based on

his military service. The total amount of regular benefits disbursed to Mr. Olsen so far is \$510. The total amount benefits disbursed so far based on the military service is \$1,023.

Since Mr. Olsen was discharged from the military and established his claim for benefits, he has not returned to the employer to offer his services.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Administrative Code rule 871-24.25(8) provides, in relevant part, as follows:

The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

**24.25(8)** The claimant left to enter military service, either voluntarily or by conscription. While in military service such claimant shall be considered to be on leave from employment. It shall only be considered a voluntary quit issue when upon release from military service such claimant does not return to such claimant's employer to apply for employment within 90 days; provided, that such person shall give evidence to the employer of satisfactory completion of such military service and further provided that such person is still qualified to perform the duties of such position.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The evidence in the record indicates that Mr. Olsen left the employment to enter full-time military service. Under the administrative rule, Mr. Olsen was deemed to be on a leave of absence from the employment during his active military service. Mr. Olsen is still within the 90-day period subsequent to his discharge from active military service. Mr. Olsen has not returned to apply for employment with the employer. Under the administrative rules referenced above, Mr. Olsen is deemed to be on a leave of absence and is not eligible for state unemployment insurance benefits. Benefits are denied effective August 17, 2014.

This matter will be remanded to the Benefits Bureau for adjudication of the separation that the claimant indicated had not yet occurred at the time of the appeal hearing.

**DECISION:**

The claims deputy's September 12, 2014, reference 01, decision is affirmed. The claimant has been on a leave of absence since he established his claim for benefits and is ineligible for benefits. Benefits are denied effective August 17, 2014. This matter will be remanded to the Benefits Bureau for adjudication of the separation that the claimant indicated had not yet occurred at the time of the appeal hearing.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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