

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEX L CARSTENSEN**  
Claimant

**APPEAL NO. 06A-UI-09978-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA CENTRAL COMMUNITY COLLEGE**  
Employer

**OC: 09/10/06 R: 01  
Claimant: Appellant (4)**

Section 96.4-3 – Availability for Work

**STATEMENT OF THE CASE:**

Alex L. Carstensen (claimant) appealed a representative's October 5, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Iowa Central Community College (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 25, 2006. The claimant participated in the hearing. Jeff Frank and Marlene McComas appeared on the employer's behalf. 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.

**ISSUES:**

Is the claimant eligible to receive unemployment insurance benefits while he is on a leave of absence?

Has the claimant voluntarily quit his employment without good cause or has the employer discharged him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 20, 2003. The claimant started working as a part-time employee, but for over two years the claimant has worked full-time. The employer hired the claimant to work as a field trainer for the employer's truck-driving school. The claimant's job requires him to possess a valid commercial driver's license.

The claimant's drivers' licenses were revoked on May 8, 2006. The claimant settled a charge against him by pleading guilty to a charge that allowed the claimant to continue his employment. The claimant's settlement did allow the claimant to keep his drivers' licenses. After the claimant's license was revoked, the employer assigned the claimant to work that did not require him to possess a commercial driver's license. The claimant continued to work full-time until September 1, 2006. At the end of August the employer no longer had work for the claimant to do in the office. Since the claimant did not have a driver's license, the employer agreed to give

the claimant 60 days to resolve his driver's license issue. The claimant and employer agreed the claimant would go on a leave of absence to resolve his driver's license issue. The claimant's leave of absence ends on or about October 31. The employer will then review the status of the claimant's driver's license and make a decision concerning the claimant's continued employment.

**REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4-3. A leave of absence negotiated with the consent of both parties is deemed a period of voluntary unemployment and a claimant is not considered eligible to receive benefits during a leave of absence. 871 IAC 24.22(2)(j). The facts establish the parties negotiated a 60-day leave of absence, September 1 through October 31, 2006. As of the date of the hearing, the claimant is still an employee so an employment separation had not occurred. If at the end of the leave of absence an employment separation occurs, the parties should contact the local Workforce office so this issue can be addressed by the Claims Section. As of September 10, 2006, the claimant is not eligible to receive unemployment insurance benefits because he is not voluntarily unemployed.

**DECISION:**

The representative's October 5, 2006 decision is modified in the claimant's favor. The claimant did not quit and the employer did not discharge him. As of October 25, 2006, the claimant is still one of the employer's employees. The claimant is on a 60-day leave of absence from September 1 to October 31, 2006. During the claimant's leave of absence he is not available to work because he is not involuntarily unemployed. Therefore, as September 10, 2006, the claimant is not eligible to receive unemployment insurance benefits. If an employment separation occurs after the leave of absence, the parties are directed to contact the local Workforce office so the Claims Section can address this issue.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/cs