

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT D COONEY
Claimant

APPEAL NO. 07A-UI-02522-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARBIES
Employer

**OC: 02/11/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Robert D. Cooney (claimant) appealed a representative's March 8, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Arbies (employer) would not be charged because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 28, 2007. The claimant participated in the hearing. Scott Smith, the store manager, 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.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in August 2005. The claimant worked as a part-time shift manager. The claimant had been planning to enlist in the Army for awhile and did on November 13, 2006. The claimant enlisted and learned it was likely he would be sent overseas after he completed basic training.

On November 15, 2006, the claimant informed the employer he was going to quit as of December 31, 2006, because he had enlisted in the Army and would more than likely be assigned overseas. Instead of working until December 31, the claimant changed his mind did not return to work after November 17, 2006. The claimant decided he needed to spend time with his family and take care of personal matters before he went to basic training on January 23, 2007. The claimant did not inform the employer about his decision to quit prior to December 31, 2006.

The claimant went to training on January 23, 2007. The Army released the claimant early.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause. Iowa Code § 96.5-1. Under 871 IAC 24.25(8) the law states a claimant is considered on a leave from employment when a claimant leaves employment to enter military service, voluntarily or by conscription. Upon release from the military the claimant must apply to return to work within 90 days of being released from the military. If the claimant does not do this, he is considered to have voluntarily quit employment for reasons that do not qualify him to receive benefits.

While the claimant's desire enter the military and serve his country are admirable, for unemployment insurance purposes he is not qualified to receive benefits because he did not offer to return to work for the employer after he was released by the military. As of February 11, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 8, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 11, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw