

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY A COURSEY**  
Claimant

**APPEAL NO. 12O-UI-00474-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN ORDNANCE LLC**  
Employer

**OC: 07/04/10**  
**Claimant: Appellant (1)**

871 IAC 24.23(10) – Leave of Absence  
Section 96.5-1-a – Quit for Other Employment  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Terry A. Coursey filed an appeal from an unemployment insurance decision dated November 17, 2010, reference 01, that denied unemployment insurance benefits effective September 19, 2010 upon a finding that he was on an approved leave of absence. Due notice was issued for a hearing to be held in Burlington, Iowa. Mr. Coursey did not receive that notice because after filing his appeal and request for an in-person hearing he moved to Utah. Administrative Law Judge decision 11A-UI-09068-N affirmed the denial of benefits. Mr. Coursey then filed an appeal with the Employment Appeal Board. On January 10, 2012 the Board remanded the matter for further proceedings. Due notice was issued for a telephone hearing to be held February 20, 2012. The hearing was recessed at that time because the parties advised the administrative law judge of a separation issue which had not previously been adjudicated or listed on the hearing notice. The hearing was eventually held on March 15, 2012 with Mr. Coursey participating. Human Resources Manager Chuck Griffin participated for the employer. Exhibit D-1 was admitted into evidence.

**ISSUES:**

Has the claimant filed a timely appeal from the decision addressing leave of absence?

Was the subsequent separation from employment a disqualifying event?

**FINDINGS OF FACT:**

Terry A. Coursey, an employee of American Ordnance, LLC, was on leave of absence from September 17, 2010 through November 21, 2010. The agency notified him in November 2010 that he was not eligible for unemployment insurance benefits. He did not file an appeal until July of 2011 when he received a decision requiring that he repay the unemployment insurance benefits he had received while he was on leave of absence.

Mr. Coursey left employment with American Ordnance, LLC on July 25, 2011 to accept employment in Utah.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the administrative law judge has jurisdiction to rule on the issue of the claimant's eligibility for benefits in the fall of 2010. He does not.

Iowa Code section 96.6-2 gives individuals ten days from the date of a fact-finding decision to file an appeal. The Supreme Court of Iowa has ruled that the time limit is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). Mr. Coursey testified that he learned two months into his leave of absence that benefits were being denied. This indicates that he received the fact-finding decision dated November 17, 2010. Since he did not file an appeal until July 8, 2011 after receiving the overpayment decision, the administrative law judge has no jurisdiction to rule on the leave of absence issue.

Iowa Code section 96.5-1-a provides that an individual who resigns from employment in order to accept other employment is not disqualified for benefits. It also provides that the employer that the individual left shall not be charged for benefits. The administrative law judge concludes that no disqualification should be imposed on Mr. Coursey because of his separation from employment with American Ordnance in July 2011. No benefits should be charged to the employer based on that separation as well. In any event, there is no indication that Mr. Coursey has requested unemployment insurance benefits since accepting employment in Utah.

**DECISION:**

The unemployment insurance decision dated November 17, 2010, reference 01, has become final and remains in effect. Benefits are withheld from September 19, 2010 through November 21, 2010.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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