

SOLDIERS' BONUS - - Bona Fide resident entitled to bonus - - When?

1-24
January 22, 1934.



Mr. R.T. Finks
Chief Clerk
Adjutant General's Office
Jefferson City, Missouri

Dear Sir:

Your letter requesting an opinion from this office was as follows:

"FRANK PATE stated in his claim for Missouri Soldiers' Bonus that he was born in Cloverport, Kentucky, October 8, 1895; that he enlisted in the army August 12, 1915, at Jefferson Barracks, St. Louis, Missouri; that at the time of his enlistment his address was 3907 N. 25th St., St. Louis, Missouri, that he was a laborer by occupation and was not employed at the time of his enlistment.

He further states that he came to this State January 1, 1915, and resided here until the date of his enlistment on August 12, 1915; that his mother was deceased and his father resided at Cloverport, Kentucky, at the time of his enlistment; that he has resided in Missouri since his discharge from military service.

The claimant was a minor at the time of his enlistment - being only 19 years old, his parent residing in Kentucky, and only lived in Missouri seven months before entering service.

This claim has been disallowed because the claimant was not a bona fide resident of Missouri at the time he entered military service.

It is requested that this office be furnished an opinion as to whether the above named veteran was a bona fide resident of Missouri at the time of his enlistment."

Article 4, Section 44b of the Missouri Constitution provides as follows:

"The General Assembly shall have power, for purposes of paying to each bona fide resident of the State of Missouri who served honorably in the military or naval forces of the United States of America at any time between the sixth day of April, nineteen hundred and seventeen, and the eleventh day of November nineteen hundred and eighteen * * * provided no person shall be entitled to receive the bonus herein provided who was not a bona fide resident of the state of Missouri at least during the twelve months prior to the sixth day of April, nineteen hundred seventeen, or who has received a state bonus from any other state in the Union."

The applicant should submit proof of his claim. That is to say that under the constitution and law of this State, if he be a bona fide resident of this State at least during the twelve months prior to April 6th, 1917, as he claims he was, he is entitled to a bonus. The whole question involved in your query is simply this: When a soldier who became a resident of Missouri on January 1, 1915, and resided in Missouri until his enlistment on August 12, 1915, and continued to reside in Missouri after his discharge, should any of the time be included in computing the year of bona fide residence prior to April 5, 1917, that said soldier spent in the service after his enlistment.

Bona fide residence is to be determined objectively by the actions and conduct of the claimant, as well as subjectively by the assertion of facts in his claim. Bona fide residence is a matter of intention, on part of the claimant.

It is the opinion of this office in the instant case, that this soldier's time in the service, starting August 12, 1915, and ending April 6, 1917, should not be considered as negating his legal residence in Missouri, which he claims started on January 1, 1915, merely because such time was spent as a soldier away from his residence, and in the service of his country, and that upon proof of residence in Missouri for one whole year prior to April 6, 1917, this claim should be allowed. Proof of residence should be established in the statutory method.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED;

ROY McKITTRICK..