

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB N LOUCK

Claimant

APPEAL NO: 15A-UI-08075-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARAMARK SPORTS LLC

Employer

OC: 06/07/15

Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits
871 IAC 24.10 – Employer Participation

STATEMENT OF THE CASE:

Aramark Sports, L.L.C. (employer) appealed a representative's July 6, 2015 decision (reference 01) that concluded Jacob N. Louck (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 21, 2015. The claimant participated in the hearing. David Campbell appeared on the employer's behalf. During the hearing, Employer's Exhibits One, Two, and Three were entered into evidence. 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:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct? Was the claimant overpaid unemployment insurance benefits, and if so, is that overpayment subject to recovery based upon whether the employer participated in the fact-finding interview?

FINDINGS OF FACT:

The claimant started working for the employer on or about December 1, 2012. He worked part time (30 – 35 hours per week) as a warehouse worker in the employer's Iowa City, Iowa food and beverage service. His last day of work was May 20, 2015. He was incarcerated on or about that date, missing scheduled work thereafter. He was not released until about June 3, 2015. The employer would have considered bringing the claimant back to work after that date, but because of the legal issues the claimant had to move from Iowa City to Davenport, and therefore had transportation issues that made his return to work impractical.

The claimant established a claim for unemployment insurance benefits effective June 7, 2015. A fact-finding interview was held with a Claims representative on June 30, 2015. The employer, through a Brian Oliver, a consultant from Equifax/Talx, participated in the fact-finding interview.

The claimant has received unemployment insurance benefits after the separation in the amount of \$1,737.00.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. However, an employee is also deemed to have left without good cause if the employee is absent from work due to becoming incarcerated. Rule 871 IAC 24.25(16). Here, while the employer might have allowed the claimant to return to the employment after the period of incarceration, the initial separation was caused by that incarceration, and there was no successful return to work after that separation. Benefits are denied.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a,-b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits. Because the employer participated in the fact-finding interview, the claimant is required to repay the overpayment and the employer will not be charged for benefits paid.

DECISION:

The representative's July 6, 2015 decision (reference 01) is reversed. The claimant is deemed to have voluntarily left his employment without good cause attributable to the employer. As of May 20, 2015, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account is not subject to charge. The claimant is overpaid \$1,737.00, which is subject to recovery.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css