

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOT A GOK
Claimant

IOWA PREMIUM LLC
Employer

APPEAL 18R-UI-09493-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/01/18
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.11 – Incarceration Disqualification

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 20, 2018, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quitting. The parties were properly notified about the hearing. A telephone hearing was held on October 2, 2018. Claimant participated and testified. Employer did not participate.

ISSUES:

Is the claimant disqualified from receiving unemployment benefits due to a separation from employment as the result of incarceration?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 16, 2016. Claimant last worked as a full-time production worker. Claimant was separated from employment on June 25, 2018, after he was incarcerated. The last day claimant worked was June 9, 2018. Claimant was arrested on charges of operating while intoxicated (OWI) and incarcerated on June 9, 2018. Claimant pled guilty to the OWI charge on Friday, June 22, 2018, was sentenced to time already served in jail, and was released. When claimant attempted to return to work on Monday, June 25, he was told by security that he had been separated from employment after missing work due to his incarceration.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation due to incarceration is disqualifying. Benefits are withheld.

Iowa Code section 96.5(11) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

11. Incarceration--disqualified.

a. If the department finds that the individual became separated from employment due to the individual's incarceration in a jail, municipal holding facility, or correctional institution or facility, unless the department finds all of the following:

(1) The individual notified the employer that the individual would be absent from work due to the individual's incarceration prior to any such absence.

(2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the individual was found not guilty of all criminal charges relating to the incarceration.

(3) The individual reported back to the employer within two work days of the individual's release from incarceration and offered services.

(4) The employer rejected the individual's offer of services.

b. A disqualification under this subsection shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Under Iowa Code section 96.6(2) provides the claimant has the initial burden to produce evidence showing that he is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11. If it is shown the claimant became separated from employment due to his incarceration he must produce evidence on the whether the four conditions for avoiding incarceration disqualification are met. Here, the claimant cannot meet the requirement under Iowa Code §96.11(a)(2), as he has pled guilty to the criminal charges for which he was incarcerated. Accordingly, while claimant did not voluntarily quit, he is disqualified due to incarceration under Iowa Code §96.11. Benefits are denied.

DECISION:

The July 20, 2018, (reference 01) decision is modified with no change in effect. The claimant's separation due to incarceration is disqualifying. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount or is otherwise deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs