

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MICHAEL S PETERSON
Claimant

APPEAL NO. 18A-UI-06138-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SNAP-ON LOGISTICS COMPANY
Employer

OC: 05/06/18
Claimant: Appellant (1)

Section 96.5 – Disqualification - Incarceration

STATEMENT OF THE CASE:

Michael Peterson (claimant) appealed a representative's May 23, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Snap-On Logistics Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 21, 2018. The claimant participated personally. The employer participated by Jodie Rath, Human Resources Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 17, 2018 as a full-time assembler. On April 17, 2018, the claimant was arrested at work and removed from the property. He was incarcerated overnight and released on April 18, 2018. On April 18, 2018, he returned to work. Law enforcement went to the workplace on April 18, 2018, and removed him pursuant to a no contact order that was issued regarding a co-worker. The employer was not provided with a copy of the no contact order.

The claimant talked to the prosecuting attorney and the judge about amending the language of the order to allow the co-worker and himself to continue working for the employer. He was working on this issue and thought it could be resolved when the matter of his parole revocation came up.

On April 19, 2018, the claimant left a message for the production supervisor. He said that he was going to prison and would not be able to continue his employment. The employer accepted the claimant's resignation. The claimant returned to prison on a parole revocation from April 20, 2018, to May 2, 2018. On or about May 4, 2018, the claimant called the employer and asked if

he could return to work. The employer said it had accepted his resignation. The employer's policy was to wait six months before accepting applications from employees who had self-terminated.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant was disqualified for unemployment insurance benefits based on his incarceration.

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.

Based upon the evidence provided, the claimant was incarcerated from April 20, 2018, to May 2, 2018. On April 19, 2018, he did notify the employer of the absence. The claimant was found guilty of the criminal charges filed against him, as he was serving time in a correctional facility for probation revocation. The claimant contacted the employer a few days after his release from prison and offered to return to work but no work was available to him. The claimant's separation was based on his incarceration. The claimant did not meet the requirements of the Iowa Code related to disqualification for incarceration. His charges were filed, they were not dismissed, and he was convicted of criminal acts. Therefore, the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's May 23, 2018, decision (reference 01) is affirmed. The claimant left work based on his incarceration. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs