

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

REGINA A WALBRUN
Claimant

NORDSTROM INC
Employer

APPEAL 22A-UI-18422-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/10/22
Claimant: Appellant (1)**

Iowa Code section 96.6(3) – Previous Adjudication
Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.5(5) – Deductions
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment

STATEMENT OF THE CASE:

The claimant, Regina A Walbrun, filed a timely appeal from the October 19, 2022, (reference 04) unemployment insurance decision that found he had been overpaid \$102.00 in regular unemployment insurance benefits for the week ending July 16, 2022. After due notice was issued, a telephone conference hearing was set for November 17, 2022 at 9:00 a.m. The claimant participated. The administrative law judge took official notice of the agency records, including documents generated at factfinding. Exhibits A and B were admitted into the administrative record. The claimant waived notice regarding the issue of whether the matter had been previously adjudicated.

ISSUES:

Whether the issue has been previously adjudicated?
Whether the claimant inaccurately reported wages from July 16, 2022?
Whether the claimant is overpaid benefits?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds:

The claimant filed for benefits on July 10, 2022. The claimant made one weekly claim for the week ending July 16, 2022. The claimant received one weekly benefit payment of \$237.00 for that week.

On August 10, 2022, a representative issued a decision, reference 01, finding the claimant ineligible for benefits with the rationale she was not able and available. On August 16, a representative issued a decision, reference 03, finding the claimant was overpaid the full amount of \$237.00 because she was not eligible for benefits. On August 18, 2022, a representative issued

On October 7, 2022, Administrative Law Judge Duane L. Golden issued three different decisions regarding the claimant's claim, 22A-UI-16341-DG-T, 22A-UI-16342-DG-T, and 22A-UI-16343-DG-T.

In 22A-UI-16341-DG-T, Judge Golden reversed a representative's decision below that found the claimant was not able and available for work and denied her benefits effective July 10, 2022. This made her eligible for benefits, assuming she was otherwise eligible. This decision was issued on October 7, 2022.

In 22A-UI-16343-DG-T, Judge Golden found the claimant was not overpaid benefits for the one week ending July 16, 2022. He reasoned that she was entitled to benefits. This decision was issued on October 7, 2022.

In 22A-UI-16342-DG-T, Judge Golden reversed a representative's decision below that found the claimant's vacation pay of \$102.00 should be deducted from her claim. This decision was issued on October 7, 2022.

On October 20, 2022, the claimant appealed all three decisions to the Employment Appeal Board ("EAB"). The EAB refused to send these matters back to Judge Golden or reverse his decisions. The claimant did not appeal the EAB decisions in district court.

On October 18, 2022, a representative of the agency issued an overpayment decision, reference 04, reflecting these three decisions issued by Judge Golden on October 7, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the issue has been previously adjudicated.

Iowa Code section 96.6(3) provides:

3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

Iowa Admin. Code r. 871-24.19(1) provides:

Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. . . . The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any other such party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

The issue regarding whether \$103.00 be deducted from her claim was adjudicated in 22A-UI-16342-DG-T. The claimant appealed that decision to the EAB. The EAB refused to remand the matter back down or to reverse that finding. The claimant did not appeal this EAB decision in district court. As a result, this administrative law judge is bound by that final decision.

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

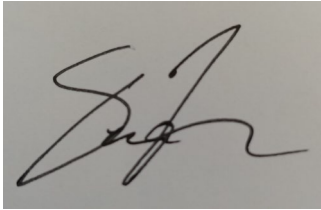
7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since 22A-UI-16342-DG-T required a deduction of \$102.00 be made to the continuing claim for the week ending July 16, 2022, the claimant was overpaid \$102.00 in unemployment insurance benefits.

DECISION:

The October 19, 2022, (reference 04) unemployment insurance decision is AFFIRMED. The claimant has been overpaid \$102.00 in benefits.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge II
Iowa Department of Inspections & Appeals
Administrative Hearings Division – UI Appeals Bureau

November 30, 2022
Decision Dated and Mailed

smn/mh

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.