

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOCELYN SHEETS

Claimant

APPEAL 22A-UI-03922-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONCORD PUBLISHING HOUSE

Employer

OC: 07/26/20

Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On January 31, 2022, the claimant filed an appeal from the January 20, 2022, (reference 02) unemployment insurance decision that determined she was overpaid regular unemployment benefits due to incorrectly reported wages from Concord Publishing House, Inc., for the one week period between September 27, 2020, and October 3, 2020. The parties were properly notified about the hearing. A telephone hearing was held on March 14, 2022. Claimant, Jocelyn Sheets, participated and testified. Employer did not call the toll-free number listed on the notice of hearing and did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the appeal timely?

Was the claimant overpaid regular unemployment benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a determination that the claimant incorrectly reported wages for the one-week period between September 27, 2020, and October 3, 2020, from Concord Publishing House.

The ALJ reviewed the claimant's administrative record and the November 16, 2020, reference 01, decision is identical to the reference 02 decision with the exception that the claimant's overpayment was calculated at \$242.00. The claimant paid the \$242.00 with check #1003 and that payment was posted to the claimant's account.

The claimant's appeal deadline was Sunday, January 30, 2022. The claimant's appeal was post marked January 31, 2022.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appeal deadline was Sunday, January 30, 2022. The claimant's appeal was postmarked on Monday, January 31, 2022. Since the appeal deadline fell on a Sunday the appeal deadline is extended to the next day. The claimant filed a timely appeal.

The administrative law judge concludes claimant has not been overpaid benefits for the stated reason.

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

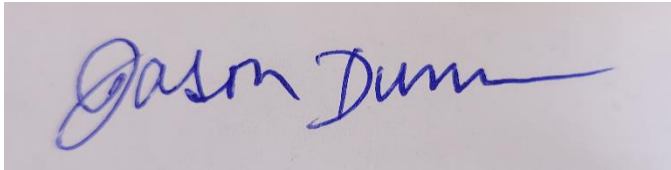
any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant has previously paid the overpayment determined in the reference 01 decision in the amount of \$242.00.

The overpayment decision made in this appeal is duplicative of the reference 01 decision and the claimant is not obligated to repay the \$272.00 determined in this appeal.

DECISION:

The January 20, 2022, reference 02, overpayment unemployment decision is reversed. The claimant is not obligated to repay \$272.00 due to her repayment of the overpayment calculated in the reference 01 decision which is duplicate of this appeal.



Jason Dunn
Administrative Law Judge
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March 31, 2022
Decision Dated and Mailed

jd/mh