

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

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**KELLEY J FERGUSON**  
Claimant

**APPEAL NO. 23A-UI-02094-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 06/07/20**  
**Claimant: Appellant (1)**

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Iowa Code § 8A.504 – Set-off Procedures  
Iowa Code § 96.11(16) – Off-set Administrative Fee  
Iowa Admin. Code r. 871-25.16 - Income Tax Offset

**STATEMENT OF THE CASE:**

On February 27, 2023, Kelley Ferguson (claimant) filed a timely appeal from the February 16, 2023, reference 05 decision stated that IWD was withholding the claimant's Iowa income tax refund to offset it against an outstanding overpayment of unemployment insurance benefits and a \$7.00 administrative transfer fee. After due notice was issued, a hearing was held on March 16, 2023. Claimant participated. There were four appeal numbers set for a consolidated hearing: 23A-UI-02090-JT-T, 23A-UI-02092-JT-T, 23A-UI-02093-JT-T, and 23A-UI-02094-JT-T. Exhibit A, the online appeal, and Exhibit 1, an October 23, 2020 paystub, were received into evidence at the time of the hearing. The administrative law judge took official notice of the Iowa Workforce Development administrative records labeled D-1 through D-16. The administrative law judge left the hearing record open for the limited purpose of allowing the employer in the companion appeal and the claimant the opportunity to submit employment records relevant to the period beginning June 7, 2020. The employer submitted four pages that were received into evidence as Exhibit 2. The claimant did not present records as requested, but instead submitted a brief written statement, which was received into evidence as Exhibit B.

**ISSUE:**

Whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to off-set or recover a prior overpayment of unemployment insurance benefits plus a \$7.00 administrative transfer fee.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has a \$1,638.00 outstanding overpayment of unemployment insurance benefits. The claimant filed a 2022 Iowa income tax return and was due a refund. The claimant believes the expected refund amount is \$900.00. The amount of the overpayment exceeds the amount of the Iowa income tax refund. On February 16, 2023, Iowa Workforce Development mailed notice

to the claimant that IWD would withhold the Iowa income tax refund to offset it against the outstanding overpayment amount and a \$7.00 administrative transfer fee.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 8A.504 provides a procedure for state agencies “to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency.” Iowa Code section 96.11(16) directs Iowa Workforce Development to assess “an additional amount for the reimbursement of setoff costs incurred by the department of administrative services.”

Iowa Administrative Code rule 871-25.16 provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual’s payment from the state to recover all or a part of the individual’s overpayment of benefits and to reimburse the department of revenue for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(1) The individual's name and social security number are given to the department of revenue.

(2) The department of revenue notifies the department that an overpaid individual is owed a payment from the state. The department then notifies the overpaid individual of the potential offset against the individual's payment from the state.

(3) In the case of a joint or combined income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for split of the refund is not made timely, the entire income tax refund becomes subject to offset.

(4) Any appeal by the individual is limited to the validity of the department’s authority to recoup the overpayment through offset.

(5) In the event that the amount of the offset exceeds the remaining overpayment, the department shall issue to the individual a special check equal to the amount of the excess.

This rule is intended to implement Iowa Code section 96.11 and 421.17(26,29).

The claimant is owed a payment from the state of at least \$50.00 and owes an overpayment of benefits of at least \$50.00. Iowa Workforce Development has complied with the off-set procedure set forth at Iowa Code section 8A.504. Iowa Workforce Development has authority to offset the claimant’s Iowa income tax refund against the outstanding overpayment balance.

**DECISION:**

The February 16, 2023 (reference 05) decision is AFFIRMED. Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to offset it against an outstanding unemployment insurance overpayment balance and a \$7.00 administrative transfer fee.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

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James E. Timberland  
Administrative Law Judge

March 24, 2023  
Decision Dated and Mailed

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**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  
4<sup>th</sup> 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.

**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 then file a petition for judicial review in district court.

2. If no one files 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 Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.

**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 nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.