

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

SHANNON K BECTHOLD
Claimant

APPEAL NO: 18A-UI-06917-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 03/18/18
Claimant: Appellant (2)

Section 96.3-7 – Recovery of Benefit Overpayment
Section 96.5-5 – Failure to Report Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 14, 2018, reference 04, decision that determined she failed to report wages earned and was overpaid benefits in the amount of \$1,032.00 for the two weeks ending March 31, 2018. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 13, 2018. The claimant participated in the hearing. The employer sent an email indicating it did not wish to participate in the hearing.

ISSUE:

The issues are whether the claimant failed to report wages earned and whether she is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from employment with Wells Fargo Bank January 10, 2018. Prior to that, she was on a leave of absence and short-term disability. She did not receive any wages after March 2017.

The claimant's appeal file contained a Separation Agreement and General Release with her name handwritten in the margins on the front of the document with other notes clearly made by a Department employee. That agreement references Girls on the Run of Eastern Iowa as the employer. The claimant has never worked for or heard of that organization. The pay and vacation pay amounts listed in that release corresponds to the numbers erroneously attributed to the claimant.

The overpayment issue in this case was created by the decision stating the claimant failed to report wages earned.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(5) provides:

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

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Code § 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant testified she did not receive any wages following her separation from this employer and the employer did not participate in the hearing and offer any testimony or evidence that the claimant received wages after her separation date. The claimant was on a leave of absence for several months before her separation and last received wages in March 2017.

The Separation Agreement and General Release contained in the claimant's file does not pertain to the claimant. She was never employed by Girls on the Run of Eastern Iowa and did not receive any pay or vacation pay following her separation from Wells Fargo Bank.

Because there is no evidence that the claimant received wages for the two weeks ending March 31, 2018, the administrative law judge finds the wages deducted from the claimant's unemployment benefits was done so in error. Therefore, wages shall not be deducted for the two weeks ending March 31, 2018.

The administrative law judge further concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$1,032.00 for the two weeks ending March 31, 2018, pursuant to Iowa Code section 96.3-7, as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The June 14, 2018, reference 04, decision is reversed. The claimant did not fail to report any wages and has not been overpaid unemployment insurance benefits in the amount of \$1,032.00 for the two weeks ending March 31, 2018.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn