

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARY K SAVOLT
Claimant

APPEAL 16A-UI-13073-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 04/10/16
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.3(7) - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Mary K. Savolt (claimant) appealed an unemployment insurance decision dated September 28, 2016 (reference 06) that concluded she was overpaid \$468.00 in unemployment insurance benefits. A telephone hearing was held on December 9, 2016. The claimant waived notice of the issues so the hearing could be held at the same time as the hearing related to the underlying issue. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

ISSUE:

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 10, 2016. The claimant filed for and received \$468.00 in unemployment insurance benefits for the two weeks between August 28, 2016 and September 14, 2016. She was later found ineligible for unemployment insurance benefits for those weeks in the Unemployment Insurance Decision dated September 14, 2016 (reference 03). That decision has been reversed by the administrative law judge in appeal 16R-UI-12459-SC-T.

The overpayment decision was mailed to the claimant's last known address of record on September 28, 2016. She received the decision within the appeal period. However, the claimant mistakenly believed that she did not need to file an appeal to the overpayment decision as she had appealed the underlying issues.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant's appeal is timely filed and she has not been overpaid unemployment insurance benefits.

Iowa Code § 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, subsection 10, 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 claimant reasonably believed that her appeal on the underlying issues would automatically set up an appeal for the overpayment. The claimant has presented a good cause reason for failing to file an appeal within the allotted ten days. The claimant's appeal is timely.

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

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.

Since the decision disqualifying the claimant has been reversed, the claimant was not overpaid \$468.00 in unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated September 28, 2016 (reference 06) is reversed. The claimant was not overpaid \$468.00 in unemployment insurance benefits.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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