

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY MEHMEN
Claimant

APPEAL 23A-UI-11546-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

On December 11, 2023, the claimant/appellant, Randy Mehmen, filed an appeal from the December 7, 2023 (reference 03) unemployment insurance decision which concluded the claimant was overpaid \$300 in Lost Wage Assistance (LWA) benefits¹ because he failed to accurately report earnings while receiving unemployment insurance benefits.

The parties were properly notified of the hearing. A telephone hearing was held on January 2, 2024, at 10:00 a.m. The claimant participated. The claimant was represented by his mother, Cheryl Mehmen. She also provided testimony in support of his appeal. 23A-UI-11544-SN-T, 23A-UI-11545-SN-T, and 23A-UI-11547-SN-T were heard jointly with this appeal. Iowa Workforce Development Department's Integrity Bureau participated through Investigator Kara Harrison. Exhibits A, B and C were admitted into the record.

ISSUES:

Whether the claimant was partially, temporarily, or totally unemployed for the week ending August 1, 2020?

Was claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

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

On October 10, 2018, the claimant began working for Loveland Waterfalls Limited, a car wash. This employer paid the claimant \$8.00 per hour.

The claimant filed a claim for unemployment insurance benefits with an effective date of March 22, 2020. The claimant's weekly benefit amount is \$109.00. The claimant filed the claim online.

¹ This was a supplemental payment of benefits if the claimant was eligible for regular unemployment insurance benefits for the week in question.

He selected the option to have a debit card sent to his address of record, 122 West Parker Street in Waterloo, Iowa 50703 2434.

The claimant continued to file weekly continued claims for unemployment insurance benefits and continued to receive benefits.

When the claim was established, the claimant agreed to read the Unemployment Insurance Handbook. The Unemployment Insurance Handbook includes instructions for properly filing claims and informs claimants that failure to follow the instructions could result in a denial or overpayment of benefits. The handbook also informs claimants that they should call IWD customer service for help if they don't understand the information in the handbook.

With respect to "Reporting Earnings," the handbook states:

Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. Earnings or wages must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if the payment has not been received yet. To calculate the amount to report, the individual should multiply the number of hours worked by the hourly wage. Individuals should report the full gross amount of earnings and IWD will calculate any deductions. If an individual earns \$15 or more over their WBA, they will not receive a benefit payment.

The handbook also provides in part:

Preparing to File a Weekly Claim

Individuals should have the following information available when filing their weekly claim:

- SSN
- PIN
- Total amount of gross wages (before deductions) earned during the week
- Total amount of gross holiday pay, gross vacation and severance, if applicable

To calculate gross earnings, multiply the number of hour worked (Sunday through Saturday) times the rate of pay. Example: 10 hours X \$12.00/hour = \$120.00 in gross earnings

In addition, each week the claimant would complete a weekly continued claim, he would see a screen online which provided:

It is important that you answer all questions truthfully.

WARNING: Attempting to claim and receive unemployment insurance benefits by entering false information can result in loss of benefits, fines and imprisonment.

Before completing his weekly continued claim each week, the claimant had to check a box that stated he understood the warning message above and wished to proceed.

When filing a weekly claim, the claimant was instructed to enter holiday and vacation pay. (Department Exhibit 6-1). Claimant was also instructed to report wages by entering "the gross amount rounded to the nearest dollar."

Finally, before submitting her weekly claim filing, claimant was required to review the information entered and answer the following question:

The laws impose penalties for false statements. Do you certify the information you have provided is true for the week ending Saturday,

IWD contacted Loveland Waterfalls Limited to verify the claimant's wages earned during the period in question. The employer reported the claimant had exceeded the maximum amount of wages for most weeks on the claim.

Investigator Kara Harrison also contacted the claimant. The claimant was mailed a preliminary audit, which stated he may have been overpaid benefits for failing to accurately report wages (Exhibit A). The letter also informed the claimant that an overpayment may result in consequences including a 15% penalty (Exhibit A).

On December 5, 2023, the claimant spoke with Investigator Kara Harrison on December 5, 2023, at 8:45 a.m., in response to the letter. The claimant did not dispute the overpayment amount or provide evidence that the wages reported by the employer were inaccurate. The claimant told Ms. Harrison that he previously had a friend that he gave his social security number and other information to file his claim for him. The claimant claimed that he received the first four weeks of unemployment, even though all his unemployment was loaded on to a US Bank card that he claimed he never received. The claimant promised to file a police report against this former friend and get back to her. Ms. Harrison said he would be receiving a letter in the mail informing him of a potential overpayment.

The claimant never filed charges against this individual.

Because the claimant did not accurately report his wages, an overpayment of \$300.00 was determined by IWD. The agency established the overpayment based upon the following incorrect payments made to the claimant:

WEEK ENDING	WAGES REPORTED	WAGES EARNED	BENEFITS PAID	BENEFITS ENTITLED	OVERPAYMENT
08/01/20	\$0.00	\$531.00	\$300.00	\$0.00	\$300.00
			TOTAL:	(UP)	(OP) \$300.00

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant was overpaid \$300.00 in LWA benefits for the week ending August 1, 2020.

The first issue is whether the claimant has been overpaid benefits.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed

partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

For the week ending August 1, 2020, the claimant's earnings exceeded his weekly benefit amount plus \$15.00. So, he is ineligible for regular benefits for that week. Since the claimant is ineligible for benefits for that week, he is also ineligible for LWA payments.

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

7. Recovery of overpayment of benefits.

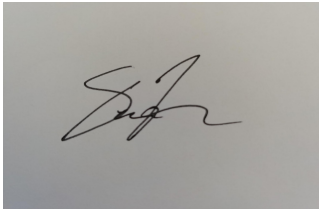
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by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

Here, claimant collected both wages and unemployment insurance benefits during each week specified in the table in the findings of fact above. The claimant inaccurately reported wages, vacation pay, and holiday pay for the week ending August 1, 2020. As a result, the claimant was overpaid benefits in the amount of \$300.00, to which he was not entitled. The

administrative law judge concludes the overpayment was correctly calculated. The underlying decision establishing the overpayment is affirmed.

DECISION:

The December 7, 2023 (reference 03) unemployment insurance decision is AFFIRMED. The claimant was overpaid \$300.00 in LWA benefits.

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read "Sean M. Nelson".

Sean M. Nelson
Administrative Law Judge II

January 8, 2024
Decision Dated and Mailed

SMN/jkb

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
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.