

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEWIS T KIHANYA
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 21A-UI-02244-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (1-R)

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

STATEMENT OF THE CASE:

On November 27, 2020, Lewis T. Kihanya (claimant) appealed an unemployment insurance decision dated January 29, 2021, reference 07, which amended a prior decision he appealed, that concluded he was overpaid \$1,224.00 in unemployment insurance benefits. After due notice was issued, a hearing was held on February 13, 2021. The claimant participated personally. The Claimant's Exhibit A was admitted into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's claim and wage histories.

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 12, 2020. The claimant filed for and received a total of \$1,224.00 in unemployment insurance benefits for the three weeks between April 12 and May 2. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits was amended in a decision of the administrative law judge (ALJ) in appeal 20A-UI-09936-NM-T, finding the claimant was not eligible for benefits from April 12 through May 2, but eligible for benefits effective May 3, if he meets all other eligibility requirements. The ALJ's decision was not appealed to the Employment Appeal Board (EAB) within fifteen days and has become final agency action.

The ALJ in the prior decision remanded for an investigation into unreported wages and there are no agency records indicating this has been addressed. The claimant filed for benefits between April 12 and June 27 and did not report any wages earned. He also filed for benefits from June 28 through September 5 and reported a total of \$750.00 in wages earned. The claimant's employers reported \$5,217.00 in gross wages paid to the claimant during the second quarter of 2020, or April 1 through June 30, and \$2,932.00 in gross wages paid to the claimant during the

third quarter of 2020, or July 1 through September 30. Whether the claimant underreported wages earned has not yet been investigated or adjudicated by the Benefits or Integrity Bureaus.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was overpaid unemployment insurance benefits, which must be repaid.

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 for the three weeks from April 12 and May 2 has been affirmed, the claimant was overpaid \$1,224.00 in unemployment insurance benefits.

Whether the claimant underreported wages earned is remanded to the Benefits Bureau for review and correction or the Integrity Bureau for an investigation and adjudication.

DECISION:

The unemployment insurance decision dated January 29, 2021, reference 07, is affirmed. The claimant was overpaid \$1,224.00 in unemployment insurance benefits, which must be repaid.

REMAND:

Whether the claimant underreported wages earned, as delineated in the findings of fact, is remanded to the Benefits Bureau for review and correction or the Integrity Bureau for an investigation and adjudication.



Stephanie R. Callahan
Administrative Law Judge

February 26, 2021
Decision Dated and Mailed

src/scn