

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOHN T GARANG
Claimant

APPEAL 22R-UI-08345-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/31/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment – Lost Wages Assistance Program

STATEMENT OF THE CASE:

The claimant John T. Garang appealed the October 19, 2021, (reference 04) decision that concluded the claimant was overpaid Lost Wages Assistance Program (LWAP) benefits. After due notice was issued, a hearing was scheduled for December 17, 2021. On December 13, 2021, claimant's attorney requested a postponement because he could not attend the hearing. Claimant's attorney did not receive a response to the request and the hearing proceeded without him. On January 20, 2022, an administrative law judge issued a decision affirming the underlying decision. Claimant appealed to the Employment Appeal Board (EAB) and requested a rehearing. On April 4, 2022, the EAB remanded this matter for a new hearing. After the EAB remanded, due notice was issued, and a hearing was scheduled for May 18, 2022.

Prior to the scheduled hearing date, claimant's attorney, Marlon Mormann, requested to have the matter adjudicated based on the record due to claimant's unavailability as he is employed as a sailor and would be working on a ship for the next several months. The administrative law judge granted the request. Claimant provided a signed declaration, a paystub, and a departure status document. These documents were received. The administrative law judge now takes official notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is the claimant overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On October 12, 2020, Iowa Workforce Development (IWD) issued a decision (reference 02) that denied claimant regular state unemployment insurance (UI) benefits. That decision has been affirmed. See 21A-UI-02462-SC-T. Claimant has received LWAP benefits in the gross amount of \$900.00 for the three-week period ending August 15, 2020.

Claimant contends he has earned ten times his weekly benefit amount since his February 19, 2020, separation, thus he requalified for benefits and was not overpaid. Claimant worked for American Seafood between February 18, 2020, and May 25, 2020. The administrative record

does not show any wages earned by since claimant's separation in February 2020. The matter of whether claimant has requalified for benefits since his separation was remanded to the Benefits Bureau for an initial investigation and decision in appeal 22R-UI-08343-S2-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

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

7. Recovery of overpayment of benefits.

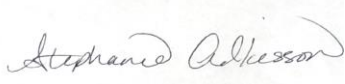
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by 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 decision that denied claimant regular unemployment insurance benefits remains in effect. Because claimant is not eligible for UI benefits, claimant is also not eligible for LWAP benefits. Therefore, claimant has received LWAP benefits to which they were not entitled. The administrative law judge concludes that claimant has been overpaid LWAP benefits in the amount outlined in the findings of fact above. Those benefits must be recovered in accordance with Iowa law.

DECISION:

The October 19, 2021 (reference 04) decision is affirmed. Claimant has been overpaid LWAP benefits in the amount of \$900.00, which must be repaid.



Stephanie Adkisson
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June 30, 2022
Decision Dated and Mailed

sa/mh