

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 09-IWDUI-074
OC: 05/30/09
Claimant: Appellant (4)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des Moines, Iowa 50319.**

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.

**RICHARD DEAN ALEXANDER
4420 BOWLING ST SW LOT F11
CEDAR RAPIDS IA 52404**

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.

**IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209**

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the Department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

(Administrative Law Judge)

April 30, 2009

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Appeal
Section 96.16-4 - Misrepresentation
Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated July 3, 2000, reference 10, which held that the claimant was overpaid unemployment benefits in the amount of \$422.00, because he incorrectly reporting wages earned with Compass Group USA Inc. for the 4-weeks ending July 10, 1999.

After due notice was issued, a hearing was scheduled for telephone conference call on April 29, 2009. The claimant participated. Neil Anderson, Investigator for Investigation and Recovery, participated for Iowa Workforce Development. Claimant Exhibit One was admitted as evidence.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having examined all of the evidence in the record, finds that: An unemployment benefit claim was filed by Richard Alexander with an effective date of May 30, 1999. After a department audit, it issued a decision that Richard Alexander was overpaid benefits \$422.00.

When claimant went to his local workforce center to inquire about his unemployment benefits on April 3, 2009, he learned about the overpayment decision. The claimant was directed to Investigator Anderson due to an identity issue. The claimant provided documentation to Anderson that established he was born on May 20, 1990, and that he was not the Richard Alexander that filed the claim that led to the overpayment. When Anderson reviewed the names of the employers that were involved with the claim, the claimant recalled them as his father's employers, and he suspected that his father had used his social security number and identity. Anderson concurred with the claimant's explanation for what had happened in this matter.

Anderson helped the claimant file an appeal on April 3, 2009. The claimant does not know where his father is currently residing nor has he had contact with him for two years. Anderson requests that the overpayment be affirmed as to Richard Alexander, but removed from the claimant's unemployment records.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the claimant filed a timely appeal. The further issue is whether the claimant is overpaid benefits in the amount of \$422.00, and if so, whether it is the result of misrepresentation.

Iowa Code Section 96.6-2 provides:

2. Initial determination. 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 a decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The administrative law judge concludes that the claimant filed a timely appeal pursuant to Iowa Code section 96.6-2. The claimant had no knowledge of the overpayment decision or that his father used his social security identity to file an unemployment claim until April 3, 2009.

Iowa Code Section 96.16-4 provides:

4. Misrepresentation. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the

provisions for the collection of past-due contributions in section 96.14, subsection 3.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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 division of job service 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 division a sum equal to the overpayment.

If the division 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 administrative law judge further concludes that "*Richard Alexander*", not the claimant, is overpaid benefits \$422.00 for the 4-weeks ending July 10, 1999 pursuant to Iowa Code Section 96.16-4. The overpayment decision and May 30, 1999 unemployment claim should be removed from the department records under the claimant's name, Richard Dean Alexander, and social security number. The department may retain the overpayment decision as attributable to Richard Alexander, and pursue collection of this amount.

DECISION:

The Iowa Workforce Development Department decision of July 3, 2000, reference 10, is MODIFIED in favor of the claimant, Richard Dean Alexander. The claimant filed a timely appeal. The claimant's name and social security number is removed from this overpayment of \$422.00 that is attributable to Richard Alexander.

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