

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

BEVERLY J TIEDEMAN

Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-06796-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/30/23

Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Beverly J. Tiedeman, the claimant/appellant,¹ filed an appeal from the Iowa Workforce Development June 28, 2023 (reference 04) unemployment insurance (UI) decision. The decision concluded that IWD overpaid Ms. Tiedeman REGULAR (state) UI benefits in the total gross amount of \$1,012.00 for 2 weeks between May 7, 2023 and May 20, 2023 because the May 30, 2023 (reference 03) UI decision denied her UI benefits because IWD concluded she refused to accept suitable work with employer Citizens Bank on May 8, 2023. On July 12, 2023, the Iowa Department of Inspections, Appeals and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Tiedeman and IWD for a telephone hearing scheduled for July 27, 2023.

The undersigned administrative law judge held a telephone hearing on July 27, 2023. Ms. Tiedeman participated personally. IWD did not participate in the hearing. The undersigned took official notice of the administrative record.

ISSUES:

Did IWD overpaid Ms. Tiedeman REGULAR (state) UI benefits for 2 weeks between May 7, 2023 and May 20, 2023?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the undersigned finds: Ms. Tiedeman filed an initial claim for REGULAR (state) UI benefits effective April 30, 2023. IWD set her weekly UI benefit amount at \$506.00 before taxes, if any, are withheld. In relevant part, Ms. Tiedeman filed weekly UI claims for 2 weeks: May 7-13 and May 14-20. IWD sent Ms. Tiedeman REGULAR (state) UI benefits of \$506.00 for each of these weeks for a total of \$1,012.00 (\$506.00 X 2).

After IWD had already sent her the money, IWD mailed Ms. Tiedeman a May 30, 2023 (reference 03) UI decision denying her REGULAR (state) UI benefits because IWD concluded she refused to accept suitable work with employer Citizens Bank on May 8, 2023. Ms. Tiedeman appealed this decision on June 1. Her appeal was noted in the IWD system.

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

The DIAL UI Appeals Bureau² scheduled a telephone appeal hearing for June 26 and Administrative Law Judge (ALJ) Sean Nelson held a hearing on that day. Two days later, while Ms. Tiedeman's appeal was still pending, IWD issued the June 28, 2023 (reference 04) UI overpayment decision that is the subject of this appeal. On July 6, ALJ Nelson issued his Administrative Law Judge Decision in Appeal 23A-UI-05687-SN-T reversing the May 30, 2023 (reference 03) UI decision. This means Ms. Tiedeman is eligible for REGULAR (state) UI benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes IWD did not overpay Ms. Tiedeman REGULAR (state) UI 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.

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.

Ms. Tiedeman is eligible for the UI benefits IWD sent her. IWD issued the June 28, 2023 (reference 04) overpayment decision while Ms. Tiedeman's appeal of the May 30, 2023 (reference 03) denial decision was pending, even though IWD was aware of Ms. Tiedeman's pending appeal. As a result, this decision is necessary. IWD did not overpay Ms. Tiedeman UI benefits. She is eligible for the benefits IWD sent her and she is not required to repay IWD any benefits.

² At the time, DIAL was named the Iowa Department of Inspections and Appeals (DIA).

DECISION:

The June 28, 2023 (reference 04) UI decision is REVERSED. IWD did not overpay Ms. Tiedeman REGULAR (state) UI benefits. Ms. Tiedeman is eligible for the benefits IWD sent her and she is not required to repay any benefits.



Daniel Zeno
Administrative Law Judge

07/28/23
Decision Dated and Mailed

DZ/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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.