

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAUREN M COOK
Claimant

APPEAL 17A-UI-12376-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/19/17
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 30, 2017, (reference 01) that concluded she was overpaid \$779.00 in unemployment insurance benefits. A telephone hearing was held on December 22, 2017. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. Julie Bogenreif, team leader, also testified. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant established an unemployment insurance claim effective November 20, 2016 in response to a temporary layoff with Bodeans Baking Holding Company LLC. The claimant then filed a new claim for unemployment insurance benefits with an effective date of November 19, 2017. The claimant filed for and received a total of \$779.00 in unemployment insurance benefits for the weeks between November 5, 2017 and November 18, 2017.

The November 30, 2017, initial decision (reference 01, benefit year November 19, 2017) concluded the claimant was overpaid \$779.00 for two weeks between November 5, 2017 and November 18, 2017. This is because of a decision dated November 28, 2017, which disqualified the claimant based upon not being able and available for work. A review the administrative record does show a decision was rendered in either the claimant's 2016 or current 2017 benefit year which denied her benefits based upon not being able and available for work, nor is there a decision even dated November 28, 2017. Rather, the claimant November 20, 2017 (reference 01, benefit year November 20, 2016) initial decision states the claimant was eligible for benefits based upon a short-term layoff with Bodeans Baking Holding Company LLC.

The claimant established an additional claim for the week ending November 4, 2017, after she was told she was laid off. The claimant was then called into work and worked a partial week, and properly reported \$480.00 in wages. For the week ending November 11, 2017, the claimant was again told she had been laid off, but then recalled to work and performed work for approximately eight hours. She reported her wages as \$100.00. The claimant did not perform work for the week ending November 18, 2017, but did earn \$15.00 in wages, which she reported, in response to a required meeting. She did not perform work for the week ending November 25, 2017, but earned \$200.00 in holiday pay. As a result of the reduced hours and temporary layoff, the claimant was paid \$779.00 for two weeks between November 5, 2017 and November 18, 2017.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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

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.

Based on the evidence presented, the administrative law judge cannot affirm the overpayment. The administrative record does not contain a decision denying the claimant for not being able and available for work, nor is there a rendered decision dated November 28, 2017.

Further, the credible evidence presented is the claimant has been on a short term lay-off or working reduced hours, properly reported her hours, and therefore is entitled to the \$779.00 in unemployment insurance benefits she received between November 5 and November 18, 2017. Accordingly, the administrative law judge concludes the claimant was not overpaid benefits.

DECISION:

The unemployment insurance decision dated November 30, 2017, (reference 01), is reversed. The claimant was not overpaid benefits in the amount \$779.00.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn