

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

CORY ZORN

Claimant

and

IWD INVESTIGATIONS & RECOVERY

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HEARING NUMBER: 22B-UI-24626

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-13, 96.16-4

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Cory Zorn, filed a claim for unemployment insurance benefits with an effective date of August 4, 2019. The Board members affirmed, with modification, the administrative law judge's decision in 21B-UI-24525 by finding that fraud was not established. The 15% penalty was therefore removed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(13) provides:

13. Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

The Board has determined §96.16 misrepresentation did not occur (21B-UI-24625), and subsequently reversed the administrative law judge's imposition of the 15% penalty. **The resultant §96.5(13) bar to the Claimant's collection of benefits in the future does not apply.** The Claimant still must repay the overpayment, but the usual recovery procedures applying including that the overpayment can be recovered from subsequent benefit payments, if any.

DECISION:

The administrative law judge's decision dated February 22, 2022 is **REVERSED**. The Employment Appeal Board concludes that the **Claimant is no longer subject to having his claim locked until the overpayment at issue in case 21B-UI-24625 is repaid, nor is that overpayment subject to recovery procedures applicable to fraudulent overpayment.** Iowa Workforce shall process any claim subsequent to the 2019 claim year accordingly.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv