

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERESA M JOHNSON
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 19A-UI-08495-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/29/19
Claimant: Appellant (2)

Iowa Code § 96.3(7) Payment – Overpayment

STATEMENT OF THE CASE:

Teresa Johnson (claimant) filed a timely appeal from the October 23, 2019 (reference 05) decision that determined she was overpaid unemployment insurance benefits in the amount of \$1,443.00 for three weeks between September 29, 2019 and October 19, 2019, due to a decision finding she was not able and available for work during that time.

A telephone hearing was held on November 20, 2019, at 1:05 p.m. The parties were properly notified of the hearing. Claimant participated personally.

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed with employer as a full-time sales representative beginning on May 13, 2019. The last day she worked on the job was June 24, 2019. She was discharged on September 16, 2019.

Claimant tore the meniscus in her knee while working for employer on June 24, 2019. She saw her doctor two days later and learned of the extent of the injury. She was unable to work for employer from that time until she was discharged. She had a surgical procedure to repair the torn meniscus on August 21. Her surgeon released her to return to work with no restrictions on September 24, 2019. Some activities may have caused swelling of her knee at that point, but she would have been able to return to her sales job and could perform daily activities such as walking, standing, sitting, and driving.

The claimant filed for and received a total of \$1,443.00 in unemployment insurance benefits for the weeks between September 29, 2019 and October 19, 2019. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been reversed in a decision of the administrative law judge in Appeal No.19A-UI-08494-AD-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the October 23, 2019 decision is REVERSED. The administrative law judge concludes that the claimant was not overpaid benefits.

Iowa Code section 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.

For the reasons set forth in Appeal No.19A-UI-08494-AD-T, claimant was able to work effective September 24, 2019. Because claimant was able to work during the three weeks from September 29, 2019 through October 19, 2019, she was not ineligible for benefits for that reason during that time and thus not overpaid unemployment insurance benefits.

DECISION:

The October 23, 2019 (reference 05) decision that determined claimant was overpaid on her unemployment insurance claim for three weeks between September 29, 2019 and October 19, 2019 is REVERSED. Benefits are allowed, provided claimant is otherwise eligible.

Andrew B. Duffelmeyer
Administrative Law Judge

Decision Dated and Mailed

abd/scn