

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

ZACHARY OWENS

Claimant

and

HGI LAKESIDE LLC

Employer

HEARING NUMBER: 18BUI-08395

**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: 96.5-1, 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

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 the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law in the last full paragraph at p. 3 as follows:

Mr. Owens received \$1,935.00 in benefits for the five weeks between July 22, 2018 and August 25, 2018, but this decision disqualified him for those benefits. Accordingly, the benefits Mr. Owens received constitute an overpayment of benefits. ~~Though the employer did not participate in the fact-finding interview, the evidence indicates that Mr. Owens made intentionally misleading statements at the fact finding interview. Accordingly, Mr. Owen's must repay the benefits.~~

Iowa Code 96.3(7)"b"(1)(a) provides in relevant part:

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](#). The employer shall **not** be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

Because the Employer did not participate in the fact-finding interview, the employer's account shall **not** be relieved of liability for benefits for the period beginning July 22, 2018.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv