

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MOSES KOLLIE

Claimant

APPEAL NO: 13A-UI-14138-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE

Employer

OC: 06/30/13

Claimant: Respondent (2/R)

871 IAC 24.1(113) – Layoff

Iowa Code § 96.3(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 19, 2013 determination (reference 02) that held the claimant eligible to receive benefits as of November 17, 2013, because he was on a short-term layoff. The claimant did not respond to the hearing notice or participate at the January 16 hearing. Jim Funcheon, the human resource director, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of November 17, 2013 or as of December 22, 2013, because he was not on a short-term layoff.

ISSUE:

As of November 17, 2013, was the claimant on a short-term layoff and eligible to receive benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of June 30, 2013. He reopened his claim for benefits during the week of November 17, 2013 and during the week of December 22, 2013. Both times the claimant reported he was on a temporary layoff.

The claimant filed claims for the weeks ending November 23, 30 and December 28, 2013. The claimant reported that he had not worked or earned any wages for the weeks ending November 23 and 30. For the week ending November 23, he actually earned gross wages of \$1,711.52, and for the week ending November 30 he earned gross wages of \$1467.02. (Employer Exhibit One.) He received his maximum weekly benefit amount of \$396 for both of these weeks. The claimant also filed a claim for the week ending December 28 and reported he had earned gross wages of \$150. He actually earned gross wages of \$1671 for this week.

REASONING AND CONCLUSIONS OF LAW:

A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). The facts do not establish that the claimant was on a short-term layoff as of November 17 or as of December 22. Instead he was fully employed. The claimant is not eligible to receive benefits for the weeks ending November 23 and 30 and December 28, 2013.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3(7). The claimant has been overpaid \$792 in benefits he received for the weeks ending November 23 and 30, 2013. The claimant is required to pay back this amount because he is **AT** fault in receiving the overpayment.

This matter will be remanded to the Claims Section to investigate the wages the claimant earned from the employer each week he has filed a claim for benefits since June 30, 2013.

DECISION:

The representative's December 13, 2013 determination (reference 02) is reversed. The claimant was not on a short-term layoff as of November 17, 2013. Instead, he was fully employed. The claimant is not eligible to receive benefits as of November 17, 2013, or as of December 22, 2013. He has been overpaid a total of \$792 in benefits he received for the weeks ending November 23 and 30, 2013. He is required to pay back this amount because the claimant is **AT** fault in receiving the overpayment.

This matter is **Remanded** to the Claims Section to investigate the wages the claimant earned from the employer each week he has filed a claim for benefits since June 30, 2013.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs