

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVEN M PAULSEN
Claimant

APPEAL 22A-UI-08298-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CARPET SPECIALISTS, INC
Employer

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated March 23, 2022, (reference 01) that concluded the claimant was overpaid \$272.00 in unemployment insurance benefits due to a failure to report wages earned from The Carpet Specialists, Inc. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 16, 2022, and was consolidated with the hearing for appeal 22A-UI-08300-S2-T. Claimant Steven M. Paulsen participated personally. Employer The Carpet Specialists, Inc. participated through co-owner Paul Kaefting. The administrative law judge took official notice of the administrative record.

ISSUES:

Did claimant correctly report wages earned?
Is claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is the co-owner of employer and also works as an installer for employer. He filed a claim for unemployment insurance benefits with an effective date of March 29, 2020, after he was laid off due to a lack of work. Claimant filed for and received a total of \$272.00 in regular unemployment insurance benefits for the one week ending April 4, 2020. Claimant did not perform any work during the week ending April 4, 2020. Employer and claimant agree claimant received a paycheck on April 1, 2020, for work performed earlier in March 2020, prior to claimant filing his claim for unemployment insurance benefits. Employer erroneously submitted to Iowa Workforce Development a statement indicating the paycheck was received for hours worked and wages earned during the week ending April 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant was not overpaid unemployment insurance benefits.

Iowa Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code § 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.

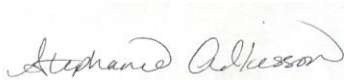
Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when an individual has received no wages and performed no services during any given week. *Id.* An individual who is totally unemployed has been permanently separated from an employer, whereas an

individual who is temporarily unemployed has not been permanently separated from employment. To be partially unemployed, an individual must be working less than their regular full-time work week and earn less than their weekly benefit amount plus fifteen dollars. *Id.*

Based on the evidence presented at the hearing, claimant did not perform work during the week ending April 4, 2020. Claimant is therefore totally unemployed. As a result, claimant is entitled to his full weekly benefit amount for that week. Claimant has not been overpaid \$272.00 for the week ending April 4, 2020.

DECISION:

The decision of the representative dated March 23, 2022, (reference 01) is reversed. Claimant was totally unemployed for the week ending April 4, 2020, and has not been overpaid regular state unemployment insurance benefits in the amount of \$272.00. This amount shall not be repaid by claimant.



Stephanie Adkisson
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June 20, 2022
Decision Dated and Mailed

sa/mh