

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER J COMES
Claimant

APPEAL NO. 23A-UI-12063-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/13/22
Claimant: Appellant (1)**

Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

On December 22, 2023, Christopher Comes (claimant) filed a timely appeal from the December 19, 2023 (reference 13) decision that held he was overpaid \$449.00 in benefits for the week that ended January 28, 2023, due to an October 31, 2023 decision that denied benefits for that week because of an inadequate work search. After due notice was issued, a hearing was held on January 12, 2024. Claimant participated. There were 14 appeal numbers set for a consolidated hearing: 23AUI12055JTT, 23AUI12056JTT, 23AUI12057JTT, 23AUI12058JTT, 23AUI12059JTT, 23AUI12060JTT, 23AUI12061JTT, 23AUI12062JTT, 23AUI12063JTT, 23AUI12064JTT, 23AUI12065JTT, 23AUI12066JTT, 23AUI12067JTT, and 23AUI12068JTT. Exhibits A through F were received into evidence. The administrative law judge took official notice of the following Iowa Workforce Development administrative records: reference 01 through 18 (o.c. 11/13/22) decisions, DBIN, KCCO, WAGE-B, KFFV, NMRO, DBRO, KLOG, IowaWORKS.gov, and of the overpayment balance data. In addition, the administrative law judge took official notice of the United States Postal Service mail forwarding options, Article 000007192, published at <https://faq.usps.com/s/article/Mail-Forwarding-Options>.

ISSUE:

Whether the claimant was overpaid \$449.00 in benefits for the week that ended January 28, 2023, due to an October 31, 2023 decision that denied benefits for that week because of an inadequate work search.

FINDINGS OF FACT:

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

Christopher Comes (claimant) established an original claim for benefits that was effective November 13, 2022. Iowa Workforce Development set the weekly benefit amount at \$449.00. At the time claimant established the claim for benefits, he resided in Urbandale and provided the Urbandale address to IWD as the address to which agency correspondence should be directed. After the claimant established the original claim for benefits, he made weekly claims for each of

the weeks between November 13, 2022 and March 4, 2023. IWD paid \$449.00 in benefits for each of those weeks.

On October 31, 2023, Iowa Workforce Development mailed six benefit denial decisions (reference 07 through 12) to the claimant's Urbandale address of record. Each decision denied benefits for one of the weeks between January 22, 2023 and March 4, 2023, based on a determination that the claimant did not meet the reemployment activities requirements and had earlier been warned about the requirements. The reference 07 decision denied benefits for the week ending January 28, 2023. The reference 08 decision denied benefits for the week ending February 4, 2023. The reference 09 decision denied benefits for the week ending February 11, 2023. The reference 10 decision denied benefits for the week ending February 18, 2023. The reference 11 decision denied benefits for the week ending February 25, 2023. The reference 12 decision denied benefits for the week ending March 4, 2023. The reference 07 through 12 disqualification decisions have each been affirmed on appeal and remain in effect. See Appeal Numbers 23AUI12057JTT, 23AUI12058JTT, 23AUI12059JTT, 23AUI12060JTT, 23AUI12061JTT, 23AUI12062JTT.

The reference 07 decision prompted and is the basis for the overpayment decision from which the claimant appeals in the present matter.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)(a) 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.

Because the disqualification that triggered the overpayment decision has been affirmed on appeal and remains in effect, the \$449.00 in benefits that the claimant received for the week ending January 28, 2023 is an overpayment of benefits. The claimant must repay the overpaid benefits.

DECISION:

The December 19, 2023 (reference 13) decision is AFFIRMED. The claimant was overpaid \$449.00 in benefits for the week that ended January 28, 2023, due to an October 31, 2023 decision that denied benefits for that week. The claimant must repay the overpaid benefits.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

January 19, 2024
Decision Dated and Mailed

r/s

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.