

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

VICKY L BOWMAN
PO BOX 36
BANCROFT IA 50517-0036

CAR-GO EXPRESS
115 E SOUTHERN
SUTHERLAND IA 51058

Appeal Number: 04A-UI-02916-CT
OC: 02/01/04 R: 02
Claimant: Respondent (3)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(3) – Able and Available
96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Car-Go Express filed an appeal from a representative's decision dated March 4, 2004, reference 01, which allowed benefits to Vicky Bowman. After due notice was issued, a hearing was held by telephone on April 21, 2004. Ms. Bowman participated personally. The employer participated by Karen Keepers, Manager. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Bowman has been employed by Car-Go Express, a convenience store and gas station, since July of 1999. Prior to February 8, 2004, she had been working approximately 40 hours each week. During the week of February 1, she noted that she was only scheduled to work three days during each of the following three weeks. When she complained, the employer restored one of the two days that had been cut. Ms. Bowman was being paid \$7.75 per hour. She filed a claim for job insurance benefits effective February 1, 2004. Her weekly job insurance benefit amount is \$214.00.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Bowman is eligible to receive job insurance benefits on her claim filed effective February 1, 2004. She filed her claim because of a reduction in her workweek. An individual is eligible to receive partial benefits if the workweek has been reduced by the employer. However, an individual is not eligible to receive job insurance benefits for any week in which her earnings exceed her weekly benefit amount plus \$15.00. See 871 IAC 24.18(96). Therefore, Ms. Bowman is not eligible to receive benefits for any week in which she earns more than \$229.00 in gross wages. At an hourly rate of pay of \$7.75, she would be ineligible for benefits for any week in which she works more than 29.7 hours. The administrative law judge has reviewed the time cards submitted by the employer.

Ms. Bowman was not eligible to receive job insurance benefits for the weeks ending February 7, February 14, February 21, February 28, and March 6, 2004, as she worked more than 29.7 hours during each of those weeks. She was eligible to receive partial benefits for the week ending March 13 as she only worked 28.58 hours during that week for gross earnings of \$221.50. Ms. Bowman was paid \$43.00 in job insurance benefits for the week ending February 7; \$109.00 for the week ending February 21; \$43.00 for the week ending March 6; and \$64.00 for the week ending March 13.

For the reasons stated herein, the benefits received by Ms. Bowman for the weeks ending February 7, February 21, and March 6 now constitute an overpayment and must be repaid. She reported earnings of \$203.00 for the week ending March 13 when her actual earnings were \$221.50. Therefore, she was eligible to receive \$46.00 in benefits for the week, not the \$64.00 she actually received. Therefore, she has been overpaid \$18.00 for the week. Iowa law requires that any overpayment of benefits be repaid. See Iowa Code Section 96.3(7).

DECISION:

The representative's decision dated March 4, 2004, reference 01, is hereby modified. Ms. Bowman was not eligible to receive job insurance benefits for the five weeks ending March 6, 2004 as she had excessive earnings. She was eligible to receive \$46.00 in job insurance benefits for the week ending March 13, 2004 as she was partially unemployed. Ms. Bowman has been overpaid a total of \$213.00 in job insurance benefits.

cfc/kjf