

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

JAMEY LAYMAN
Claimant

D ARCHER ENTERPRISES LLC
Employer

APPEAL 22A-UI-13802-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/20
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total, Partial Unemployment
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

On June 10, 2022, Jamey Layman (claimant/appellant) filed an appeal from the June 2, 2022, reference 09, unemployment insurance decision that concluded he was overpaid regular unemployment benefits due to incorrectly reporting wages earned for the two-week period ending August 8, 2020. A telephone hearing was held at on July 25, 2022, pursuant to due notice. The claimant, Jamey Layman, participated and testified. The employer, D Archer Enterprises LLC, did not participate. Department Exhibits D-1, D-2, D-3 were admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the claimant incorrectly report wages while claiming benefits?

If so, is he overpaid unemployment insurance benefits as a result?

FINDINGS OF FACT:

Claimant filed an initial claim for benefits effective March 15, 2020. Claimant's weekly benefit amount was \$518.00.

The following chart reflects the weeks that claimant filed ongoing weekly claims, the wages that claimant submitted on her weekly claims, the wages that employer reported claimant earned each week and the amount of UI benefits paid to claimant:

| Week Ending | Wages Reported | Wages Earned | Benefits Paid | Benefits Entitled | Overpayment |
|-------------|----------------|--------------|---------------|--------------------|-----------------|
| 08/01/20 | 0.00 | 432.00 | 518.00 | 215.00 | \$303.00 |
| 08/08/20 | 0.00 | 600.00 | 518.00 | 0.00 | \$518.00 |
| | | | | OVERPAYMENT | \$821.00 |

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant incorrectly reported wages for the two-week period ending August 8, 2020, and is overpaid \$821.00 as a result.

Iowa Code section 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.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

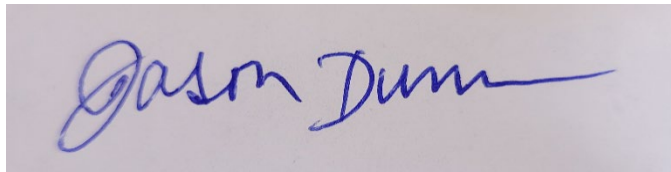
Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

Since claimant was paid \$1,036.00 in benefits but was only entitled to \$215.00, the administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$821.00 pursuant to Iowa Code § 96.3(7) as the claimant did incorrectly report wages for the two-week period ending August 8, 2020. The claimant's assertion that he should not be responsible for knowing his weekly earnings is not credible nor does it comport with his responsibility as an individual filing for unemployment benefits. The claimant was aware that he worked and earned wages for the two-week period ending August 8, 2020, and reported \$0.00 when he filed his weekly claim for benefits. The claimant failed to properly report wages and he was overpaid as a result.

DECISION:

The June 2, 2022, (reference 09) unemployment insurance decision is affirmed. Wages were not correctly reported. The claimant was overpaid unemployment insurance benefits in the amount of \$821.00.



Jason Dunn
Administrative Law Judge

September 15, 2022
Decision Dated and Mailed

jd/scn

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: 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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.