

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMY S BOEKELMAN
Claimant

APPEAL 18A-UI-01219-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/26/17
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Amy S. Boekelman (claimant) filed an appeal from the December 22, 2017, reference 02, unemployment insurance decision that found her overpaid \$117.00 for the one week ending December 16, 2017. After due notice was issued, a telephone conference hearing was set for February 19, 2018. The claimant participated. All In A Day, LLC (employer) participated through HR Specialist Toni Holguin and On Site Specialist Mary Newton. The employer's Exhibit 1 and Department's Exhibits D1 and D2 were received into the record.

ISSUES:

Is the claimant's appeal timely?

Has the claimant been overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment decision was mailed to the claimant's last known address of record on December 22, 2017. She did not receive that decision; however, she did receive the decision disqualifying her for benefits in a timely manner. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by January 1, 2018. The appeal was not filed until January 26, 2018, which is after the date noticed on the disqualification decision, because that was when the claimant called to ask why she was not receiving benefits.

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 26, 2017. The claimant filed for and received a total of \$117.00 in unemployment insurance benefits for the one week ending December 16, 2017. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 18A-UI-01218-SC-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the issue of whether the claimant's appeal is timely is moot and the claimant was overpaid unemployment insurance benefits which must be repaid.

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.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$117.00 in unemployment insurance benefits. The issue of whether the appeal of this decision is timely is moot as it would not alter the outcome of the decision. Even if the appeal was timely, as the underlying decision has been affirmed, the overpayment decision would also be affirmed.

DECISION:

The unemployment insurance decision dated December 22, 2017, reference 02, is affirmed. The claimant was overpaid \$117.00 in unemployment insurance benefits, which must be repaid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn