

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ADAM HUFF
Claimant

CHOICE AUTO
Employer

APPEAL 22A-UI-07185-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/18/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.1A(57) – Total, Partial, Temporary Unemployment
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

On March 25, 2022, Adam Huff (claimant/appellant) filed an appeal from the March 21, 2022, reference 02, unemployment insurance decision that concluded he was overpaid benefits due to incorrectly reported wages. A telephone hearing was held at on May 2, 2022, pursuant to due notice. The claimant, Adam Huff, participated and testified. The employer Choice Auto did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant incorrectly report wages while claiming benefits?

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

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant began working for employer in 2014. Claimant last worked as a full-time laborer. Claimant was separated from employment on October 15, 2020. Claimant testified that he did not receive any wages after October 15, 2020. The claimant's administrative record Wage A conforms to the claimant's testimony. The employer did not participate.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant correctly reported wages for the five-week period ending November 21, 2020, and is not overpaid 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).

The claimant testified that he did not receive any wages after October 15, 2020, through November 21, 2020. The claimant's Wage A supports the claimant's testimony. Since claimant did not earn wages for the week in question, there was no overpayment of benefits.

DECISION:

The March 21, 2022, reference 02, unemployment insurance decision is reversed. Wages were correctly reported. The claimant was not overpaid unemployment insurance benefits in the amount of \$1,550.00.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
Fax (515) 478-3528

May 26, 2022

Decision Dated and Mailed

jd/ac