

IOWA DEPARTMENT OF INSPECTIONS AND  
APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Lucas State Office Building  
Des Moines, Iowa 50319

**Appeal Number: 05-IWDUI-1004**  
**OC: 07/03/05**  
**Claimant: Appellant (1)**

**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, 4<sup>th</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

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.

**KIRK D TEMPLE**  
**2304 15<sup>TH</sup> AVENUE N**  
**FT DODGE IA 50501**

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.

**IOWA WORKFORCE DEVELOPMENT**  
**QUALITY CONTROL**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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 the Department . 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.

DAN ANDERSON, IWD

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(Administrative Law Judge)

**September 23, 2005**

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(Decision Dated & Mailed)

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Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated August 19, 2005, reference 02, which held that the claimant was not eligible to claim his spouse as a dependent on his unemployment claim.

After due notice was issued, a hearing was held by telephone conference call on September 20,

2005. The claimant participated. Sharla Kroese, Payroll Processor, participated for the employer, Appliance & Furniture Rentall. Iowa Workforce Development, Quality Control, participated by Randy Cramer, Auditor.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having examined all of the evidence in the record, finds that: The claimant filed a claim for unemployment benefits with an effective date of July 3, 2005. The department recorded the claimant claimed his spouse as a dependent for his unemployment claim, and he was made eligible for a weekly benefit amount of \$337.

Quality Control randomly selected the claimant's claim for review, and it assigned Auditor Cramer to this matter. During an interview of the claimant on August 10, 2005, Cramer learned that the claimant did not intend to claim his spouse as a dependent, as he knew that she earned gross wages of more than \$120 in the week preceding (reference week) the filing of his claim. The claimant acknowledged her earnings on his claim form that exceeded the earnings threshold, but he did write-in his spouses name on the form. The department identified the spouse name, but it failed to notice the threshold limitation, and it considered the spouse as a dependent for eligibility purposes.

Cramer advised the claimant that his spouse was not an eligible dependent, and by eliminating her from the claimant it reduced his weekly benefit amount from \$337 to \$324. Since the claimant had received benefits for a 4-week period ending August 13, 2005, he received \$13 more for each week than his entitlement that caused an overpayment of \$52.

During the hearing, the claimant emphasized that he readily disclosed his wife's earnings, but inadvertently listed her as a dependent. The overpayment has been satisfied by offset procedure.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is eligible to claim his spouse as a dependent on this claim.

#### **871 IAC 24.2(1)b(8) provides:**

(8). Number, name and relationship of any dependents claimed. A "spouse" is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim.

The administrative law judge concludes that the claimant's spouse is NOT an eligible dependent for his unemployment claim pursuant to 871 IAC 24.2(1)b(8). The claimant's spouse earned more than \$120 in the reference week that makes her ineligible as a dependent. The claimant made an inadvertent err by listing his wife as a dependent on his claim.

#### DECISION:

The decision of the representative dated August 19, 2005, reference 02, is AFFIRMED. The claimant's spouse is not an eligible dependent.

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