

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JILL D MIDDLETON
Claimant

APPEAL 18A-UI-01094-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 11/05/17
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Jill D. Middleton (claimant) filed an appeal from the January 10, 2018, reference 06, unemployment insurance decision that found her overpaid \$473.00 for the one week ending December 30, 2017. After due notice was issued, a telephone conference hearing was set for February 16, 2018. The claimant participated. The Claimant's Exhibit A and the Department's Exhibits D1 and D2 were admitted into the record.

ISSUES:

Is the claimant's appeal timely?

Has the claimant been overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On December 14, 2017, a notice was mailed to the claimant to be available for a call from Iowa Workforce Development (IWD) on December 27, 2017 about her ability to and availability for work. The claimant lost her mailbox key and was unable to obtain her mail. She did not answer the phone on December 27, 2017, because she does not answer the phone when she does not know the person calling and she did not have her voicemail set up. The claimant found her key to the mailbox on December 31, 2017, and received the notice to report. The administrative record shows the claimant's claim for benefits was locked due to a failure to report on Friday, January 5, 2018.

On January 8, 2018, a disqualification decision was mailed to the claimant's last known address of record. She received the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by January 18, 2018. (Exhibit D1) On January 10, 2018, an unemployment insurance decision finding the claimant had been overpaid \$473.00 in unemployment insurance benefits was mailed to the claimant's last known address. She received the decision within ten days. The decision contained a warning that an

appeal must be postmarked or received by the Appeals Bureau by January 20, 2018. (Exhibit D2) The appeal was not filed until January 23, 2018, which is after the date noticed on the disqualification decision. The claimant contends she filed an online appeal on January 2, 2018, after she received the notice of the fact-finding interview, contacted IWD, and learned her claim had been locked.

The claimant filed for and received a total of \$473.00 in unemployment insurance benefits for the one week ending December 30, 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-01093-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 \$473.00 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 January 10, 2018, reference 06, is affirmed. The claimant was overpaid \$473.00 in unemployment insurance benefits, which must be repaid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn