

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER M WYLIE
Claimant

APPEAL 17A-UI-11126-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 05/28/17
Claimant: Appellant (2)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Christopher M. Wylie (claimant) filed an appeal from the October 18, 2017, reference 06, unemployment insurance decision that found he was overpaid unemployment insurance because he received Short Term Disability (STD) benefits which were deductible from his unemployment insurance benefits. After due notice was issued, a telephone conference hearing was held on December 1, 2017. The claimant participated and was represented by Attorney Alan M. Daut. The Claimant's Exhibits 1 through 5 were received.

ISSUE:

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 claimant most recently worked full-time as a Housekeeper at the hotel at Prairie Meadows Race Track and Casino (Prairie Meadows). On February 21, 2017, the claimant experienced a non-work related illness. He was short of breath and was diagnosed with a heart issue that impairs his ability to work among other things. The claimant was placed on job protected leave under the Family Medical Leave Act.

The claimant also applied for and received Short-Term Disability (STD) insurance payments in the amount of \$308.00 each week beginning February 28, 2017. The claimant's most recent STD check covers the time period through August 28, 2017. (Exhibits 1 and 2). Prairie Meadows maintains and pays for the STD insurance. The claimant did not pay any part of that employment benefit. The claimant did not report any of his weekly STD payments on his continued weekly claims for unemployment insurance benefits.

On May 30, 2017, the claimant's doctor released him back to work with restrictions including maximum eight hour workdays, occasional vacuuming no greater than a 12 by 12 foot area, no pushing, pulling, or lifting to exceed ten pounds, occasional bending, no climbing, and a break from work every 30 to 60 minutes as needed. (Exhibit 4). Prairie Meadows determined it did

not have a position for him and separated him from his employment. At the same time, the claimant applied for Social Security Disability (SSD) benefits and stated in his application that he was unable to work. (Exhibit 3).

The claimant filed his claim for unemployment insurance benefits effective May 28, 2017. He searched for work each week he filed a continued weekly claim for benefits. The claimant has only applied for janitorial or housekeeping positions as they are the only jobs he is capable of doing due to his education and job experience.

On October 10, 2017, the claimant's doctor wrote a note on his behalf to support his claim for SSD stating that the claimant has been unable to work since February 21, 2017 due to significant heart and lung issues. She went on to state, "He has worked as a stock person and house keeper but cannot currently work either of those jobs due to continued shortness of breath. It is unclear at this time when or if he will be able to return to that type of work for which he has training and experience." (Exhibit 5). The claimant continues to experience health issues and is unable to walk around a retail store for more than 30 minutes without sitting down and taking a break.

On October 17, 2017, Iowa Workforce Development (IWD) issued this unemployment insurance decision, reference 05, finding that the claimant was only partially eligible for benefits due to his receipt of STD benefits. The following day, it issued an unemployment insurance decision, reference 06, finding that the claimant had been overpaid \$2,772.00 from May 28 through July 29 due to the deduction of the STD benefits. The unemployment insurance disqualifying the claimant from receiving benefits based on his receipt of STD benefits has been reversed in a decision of the administrative law judge in appeal 17A-UI-11125-SC-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not overpaid unemployment insurance benefits due to his receipt of STD benefits.

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 based on his receipt of STD benefits has been reversed, the claimant was not overpaid \$2,772.00 in unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated October 18, 2017, reference 06, is reversed. The claimant was not overpaid \$2,772.00 in unemployment insurance benefits due to his receipt of STD benefits.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn