

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL S MARINKO**  
Claimant

**APPEAL 22A-UI-04459-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNIVERSITY OF DUBUQUE**  
Employer

**OC: 03/02/21  
Claimant: Appellant (2-R)**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.5(5) – Causes for Disqualification/Other Compensation

**STATEMENT OF THE CASE:**

On February 7, 2022, claimant Michael S. Marinko filed an appeal from the February 3, 2022 (reference 04) unemployment insurance decision that found he was overpaid unemployment insurance benefits for the one-week period ending May 8, 2021. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Wednesday, March 23, 2022. Appeal numbers 22A-UI-04459-LJ-T and 22A-UI-04460-LJ-T were heard together and created one record. The claimant, Michael S. Marinko, participated. The employer, University of Dubuque, participated through Julie MacTaggart, Human Resource Director. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for the University of Dubuque on November 30, 2020. He was employed throughout his tenure as a full-time lead custodian. Claimant separated from employment on April 30, 2021, when the employer discharged him. Iowa Workforce Development has not yet determined whether claimant is eligible for benefits based on this separation from employment.

The administrative record includes a Request of Wage Records that MacTaggart completed and submitted to Iowa Workforce Development. This document states that claimant worked 25.25 hours and earned \$405.52 during the one-week period ending May 8, 2021. MacTaggart testified that this documentation was completed in error. She explained that claimant actually worked those hours during the **pay period** ending May 8, 2021, but the hours were actually worked – and the wages were actually earned – prior to his discharge on April 30, 2021.

Claimant was totally unemployed effective May 2, 2021. He was not working for or earning wages with the University of Dubuque or any other employer.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has not been overpaid unemployment insurance 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.

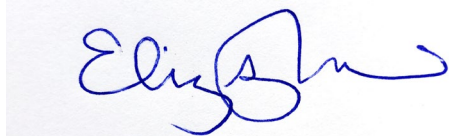
b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The evidence in the record establishes that claimant was not paid any wages at the time he was receiving unemployment insurance benefits. The employer mistakenly reported that he was working at the time he was filing for benefits, as they reported information based on their pay period system and not Iowa Workforce Developments week-by-week reporting system. The claimant has been truthful and forthright in his statements to the agency. The administrative law judge concludes that the claimant has not been overpaid regular unemployment insurance benefits. Therefore, no repayment is required.

**DECISION:**

The February 3, 2022 (reference 04) unemployment insurance decision is reversed. The claimant was not overpaid regular unemployment insurance benefits.

**REMAND:** This matter is remanded to the Benefits Bureau of Iowa Workforce Development to determine whether claimant is eligible for benefits based on his separation from the University of Dubuque.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

March 31, 2022  
Decision Dated and Mailed

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**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

Individuals who do not qualify for regular unemployment insurance benefits, but who were unemployed between February 2, 2020, and June 12, 2021, unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> in the last paragraph under "WHAT TO EXPECT FROM THE HEARING."

**The reference number is 104459, the pin number you used for the hearing.**

If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.