

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUMER DEPAEPE
Claimant

JARON ROSIEN
Employer

APPEAL 22A-UI-08549-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.5(5)-Compensation

STATEMENT OF THE CASE:

On April 5, 2022, the claimant/appellant filed an appeal from the March 29, 2022, (reference 01) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$129.00 as a result of incorrectly reported wages. The parties were properly notified of the hearing. A telephone hearing was held on May 17, 2022. The hearing was held together with appeal 22A-UI-08550-CS-T and combined into one record. The claimant participated. The employer participated through Jaron Rosien. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit D-1 was admitted into the record.

ISSUES:

- I. Is claimant totally, partially or temporarily unemployed?
- II. Did the claimant correctly report wages earned?
- III. Was the claimant was overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked as a full-time bartender/waitress. Claimant earned approximately \$5.00 an hour plus tips. Claimant's hours were reduced due to the COVID-19 mandatory shutdown. Claimant filed an initial claim for unemployment insurance benefits effective March 29, 2020. Claimant's weekly benefit amount is \$137.00.

For the week ending April 4, 2020, claimant reported she earned \$134.00 in wages. As a result of her reporting she received \$37.00 in state unemployment benefits. Claimant actually received \$172.50 in wages for the week ending April 4, 2020.

For the week ending April 11, 2020, claimant reported she earned \$120.00 in wages. As a result of her reporting she received \$51.00 in state unemployment benefits. Claimant actually received \$160.75 in wages for the week ending April 11, 2020.

For the week ending April 18, 2020, claimant reported she earned \$150.00 in wages. As a result of her reporting she received \$21.00 in state unemployment benefits. Claimant actually received \$134.00 in wages for the week ending April 18, 2020.

For the week ending April 25, 2020, claimant reported she earned \$122.00 in wages. As a result of her reporting she received \$49.00 in state unemployment benefits. Claimant actually received \$125.50 in wages for the week ending April 25, 2020.

For the week ending May 2, 2020, claimant reported she earned \$126.00 in wages. As a result of her reporting she received \$15.00 in state unemployment benefits. Claimant actually received \$145.00 in wages for the week ending May 2, 2020.

For the week ending May 9, 2020, claimant reported she earned \$122.00 in wages. As a result of her reporting she received \$49.00 in state unemployment benefits. Claimant actually received \$139.50 in wages for the week ending May 9, 2020.

For the week ending May 16, 2020, claimant reported she earned \$130.00 in wages. As a result of her reporting she received \$41.00 in state unemployment benefits. Claimant actually received \$137.00 in wages for the week ending May 16, 2020.

For the week ending May 23, 2020, claimant reported she earned \$130.00 in wages. As a result of her reporting she received \$41.00 in state unemployment benefits. Claimant actually received \$205.00 in wages for the week ending May 23, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.3.(7) states:

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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

For the weeks ending April 4, 2020, April 11, 2020 and May 23, 2020, claimant is overpaid state unemployment benefits. For April 4, 2020, claimant earned \$172.50 in wages. For the week ending April 11, 2020, claimant earned \$160.75 in wages. For the week ending May 23, 2020, claimant earned \$205.00 in wages. Claimant earned more than her weekly benefit (\$137.00) plus \$15.00 for each of these weeks. As a result, claimant had excessive earnings and is not entitled to state unemployment benefits for these three weeks. Claimant received \$37.00 for the week ending April 4, 2020. Claimant received \$51.00 for the week ending April 11, 2020. Claimant received \$41.00 for the week ending May 23, 2020. In total claimant was overpaid \$129.00 for these three weeks.

For the week ending April 25, 2020, claimant earned \$125.00 in wages. Claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$49.00. Claimant was only entitled to a partial benefit payment of \$46.00, according to the following calculation:

$\$125.00 \text{ (wages)} - \$34.00 \text{ (25\% of WBA)} = \$91.00 \text{ (wage deduction)}$

$\$137.00 \text{ (WBA)} - \$91.00 \text{ (wage deduction)} = \$46.00 \text{ (partial weekly benefit amount)}$

As a result, claimant was overpaid \$3.00 for the week ending April 25, 2020.

For the week ending May 9, 2020, claimant earned \$139.50 in wages and was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$49.00. Claimant was only entitled to a partial benefit payment of \$32.00, according to the following calculation:

$\$139.00 \text{ (wages)} - \$34.00 \text{ (25\% of WBA)} = \$105.00 \text{ (wage deduction)}$

$\$137.00 \text{ (WBA)} - \$105.00 \text{ (wage deduction)} = \$32.00 \text{ (partial weekly benefit amount)}$

As a result, claimant was overpaid \$17.00.00 for the week ending May 9, 2020.

For the week ending May 16, 2020, claimant earned \$137.00 in wages. Claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$41.00. Claimant was only entitled to a partial benefit payment of \$34.00, according to the following calculation:

$\$137.00 \text{ (wages)} - \$34.00 \text{ (25\% of WBA)} = \$103.00 \text{ (wage deduction)}$

$\$137.00 \text{ (WBA)} - \$103.00 \text{ (wage deduction)} = \$34.00 \text{ (partial weekly benefit amount)}$

As a result, claimant was overpaid \$7.00 for the week ending May 16, 2020.

For the week ending April 18, 2020, claimant earned \$134.00 in wages. Claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$21.00. Claimant was entitled to a partial benefit payment of \$37.00, according to the following calculation:

$\$134.00 \text{ (wages)} - \$34.00 \text{ (25\% of WBA)} = \$100.00 \text{ (wage deduction)}$

$\$137.00 \text{ (WBA)} - \$100.00 \text{ (wage deduction)} = \$37.00 \text{ (partial weekly benefit amount)}$
As a result, claimant was underpaid \$16.00 for the week ending April 18, 2020.

For the week ending May 2, 2020, claimant earned \$145.00 in wages. Claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$15.00. Claimant was entitled to a partial benefit payment of \$26.00, according to the following calculation:

$\$145.00 \text{ (wages)} - \$34.00 \text{ (25\% of WBA)} = \$111.00 \text{ (wage deduction)}$
 $\$137.00 \text{ (WBA)} - \$111.00 \text{ (wage deduction)} = \$26.00 \text{ (partial weekly benefit amount)}$

As a result, claimant was underpaid \$11.00 for the week ending May 2, 2020.

In total, the claimant was overpaid \$156.00 in state unemployment benefits. The claimant was underpaid \$27.00 in state unemployment benefits. After a reduction for the underpayment the administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$129.00 for the period between March 29, 2020, and May 23, 2020. Claimant is required to repay those benefits.

DECISION:

The March 29, 2022 (reference 01) unemployment insurance decision is AFFIRMED. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$129.00 for the period between March 29, 2020 and May 23, 2020, which must be repaid.



Carly Smith
Administrative Law Judge

June 29, 2022
Decision Dated and Mailed

cs/scn

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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa is the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.