

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

JESSICA A KELLEY
Claimant

APPEAL 22A-UI-17090-JT-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/03/22
Claimant: Appellant (6)

Iowa Code § 96.3(7) - Overpayment

STATEMENT OF THE CASE:

On September 14, 2022, Jessica Kelley (claimant) filed a timely appeal from the September 8, 2022 (reference 10) decision that held the claimant was overpaid \$358.00 in benefits for the week that ended August 6, 2022, due to the September 1, 2022 decision that denied benefits in connection with an inadequate work search. After due notice was issued, a hearing was held on October 11, 2022. Claimant participated. There were eight appeal numbers set for a consolidated hearing: 22A-UI-17083-JT-T, 22A-UI-17084-JT-T, 22A-UI-17085-JT-T, 22A-UI-17086-JT-T, 22A-UI-17087-JT-T, 22A-UI-17088-JT-T, 22A-UI-17089-JT-T, and 22A-UI-17090-JT-T. Exhibit A was received into evidence. The administrative law judge took official notice of the following Iowa Workforce Development administrative records: the reference 01 through 12 decisions, KFFV, DBRO, KCCO and the information the claimant entered on the IowaWORKS.gov database.

ISSUE:

Whether the claimant was overpaid \$358.00 in benefits for the week that ended August 6, 2022, due to the September 1, 2022 (reference 05) decision that denied benefits for that week in connection with an inadequate work search.

FINDINGS OF FACT:

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

Jessica Kelley (claimant) established an original claim for benefits that was effective April 3, 2022. The claimant received benefits that included \$358.00 in benefits for the week that ended August 6, 2022.

On September 1, 2022, Iowa Workforce Development issued the reference 05 decision that denied benefits for the week that ended August 6, 2022, based on the deputy's conclusion the claimant did not meet the reemployment requirements during that week and had previously been warned. The reference 05 decision prompted the overpayment decision from which the claimant appeals in the present matter. The reference 05 decision has been affirmed in Appeal Number 22A-UI-17086-JT-T and remains in effect.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Because the September 1, 2022 (reference 05) decision denied benefits for the week that ended August 6, 2022, and because the reference 05 decision remains in effect, the \$358.00 in benefits the claimant received for the week that ended August 6, 2022 is an overpayment of benefits. The overpaid benefits must be repaid..

DECISION:

The September 8, 2022 (reference 10) decision is AFFIRMED. The claimant was overpaid \$358.00 in benefits for the week that ended August 6, 2022, due to the September 1, 2022 (reference 05) decision that denied benefits for that week. The overpaid benefits must be repaid. IWD records reflect the overpaid benefits have been recovered through an offset of benefits.



James E. Timberland
Administrative Law Judge

October 18, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.