

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CODY J JANOUSEK**  
Claimant

**IOWA TRENCHLESS LLC**  
Employer

**APPEAL 22A-UI-07990-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/27/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.1A(37)a & b – Total and Partial Unemployment  
Iowa Code § 96.5(5)-Compensation

**STATEMENT OF THE CASE:**

The claimant appealed a representative's decision dated March 18, 2022, (reference 01) that concluded the claimant was overpaid \$493.00 in unemployment insurance benefits due to a failure to report wages earned from Iowa Trenchless, LLC. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 12, 2022, and was consolidated with the hearing for appeal 22A-UI-07991-S2-T. Claimant Cody J. Janousek participated personally. Employer Iowa Trenchless, LLC participated through secretary Melissa Bailey. The administrative law judge took official notice of the administrative record.

**ISSUE:**

The issue is whether the claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of December 27, 2020, after he was laid off for the season from a full-time employer. Claimant filed for and received a total of \$493.00 in regular unemployment insurance benefits for the one week ending February 20, 2021. Employer responded to a request of wage records from Iowa Workforce Development (IWD) and stated claimant worked 42 hours and earned \$1,050.00 in wages for the week ending February 20, 2021. Employer made an error in reporting the wage records because claimant did not perform any work and earned no wages for the week ending February 20, 2021.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes:

Iowa Code § 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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.

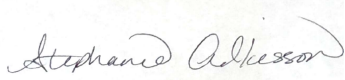
Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when an individual has received no wages and performed no services during any given week. *Id.* An individual who is totally unemployed has been permanently separated from an employer, whereas an individual who is temporarily unemployed has not been permanently separated from employment. To be partially unemployed, an individual must be working less than their regular full-time work week and earn less than their weekly benefit amount plus fifteen dollars. *Id.*

Based on the evidence presented at the hearing, claimant did not perform work during the week ending February 20, 2021. Claimant is totally unemployed. As a result, claimant is entitled to

his full weekly benefit amount for that week. Claimant has not been overpaid \$493.00 for the week ending February 20, 2021.

**DECISION:**

The decision of the representative dated March 18, 2022, (reference 01) is reversed. Claimant was totally unemployed for the week ending February 20, 2021, and has not been overpaid regular state unemployment insurance benefits in the amount of \$493.00. This amount shall not be repaid by claimant



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June 6, 2022  
Decision Dated and Mailed

sa/kmj