

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICKOLAS J MOORE
Claimant

APPEAL 17A-UI-08003-JP-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/09/17
Claimant: Appellant (4R)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 7, 2017, (reference 04), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,548.00 for the three-week period ending July 29, 2017, as a result of a disqualification decision. After due notice was issued, a telephone hearing was scheduled and held on August 24, 2017, pursuant to due notice. Claimant participated. Official notice was taken of the administrative record, including claimant's benefit payment history and claimant's continued claims filing history, with no objection.

ISSUE:

Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by the disqualification decision that has modified in favor of the appellant in appeal number 17A-UI-08002-JP-T.

The decision in appeal number 17A-UI-08002-JP-T, allowed benefits for the one week ending July 15, 2017. The decision in appeal number 17A-UI-08002-JP-T, denied benefits for the one week ending July 22, 2017. The decision in appeal number 17A-UI-08002-JP-T, allowed benefits for the one week ending July 29, 2017.

Claimant received benefits in the gross amount of \$516.00 for the week ending July 15, 2017. Claimant received benefits in the gross amount of \$516.00 for the week ending July 22, 2017. Claimant received benefits in the gross amount of \$516.00 for the week ending July 29, 2017.

On July 14, 2017, claimant received a check from the employer for back pay for the period May 18, 2017 through July 13, 2017. Included in the back pay was a gross amount of \$346.24 at a pay rate of \$10.82 per hour for four eight hour days for the time period July 10, 2017 through July 13, 2017.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the one week ending July 22, 2017.

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.
 - 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 administrative law judge concludes that claimant has not been overpaid unemployment insurance benefits in the amount of \$1,548.00 as stated by the representative's decision. However, claimant is overpaid \$516.00 for the one week ending July 22, 2017 pursuant to Iowa Code § 96.3(7) because the decision that created the overpayment decision has now been modified in favor of the appellant in appeal number 17A-UI-08002-JP-T.

DECISION:

The August 7, 2017, (reference 04) unemployment insurance decision is modified in favor of the appellant. Claimant has been overpaid unemployment insurance benefits for the one week ending July 22, 2017 in the gross amount of \$516.00 to which he was not entitled and those benefits must be recovered in accordance with Iowa law. Claimant has not been overpaid unemployment insurance benefits in the amount of \$516.00 for the week ending July 15, 2017. Claimant has not been overpaid unemployment insurance benefits in the amount of \$516.00 for the week ending July 29, 2017

REMAND: The issue of whether claimant's back pay, as delineated in the findings of fact, should be considered deductible wages is remanded to the Benefits Bureau of Iowa Workforce Development for investigation.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs