

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

TYLER B DANIELS

Claimant

HOUSTON ASTROS LLC

Employer

APPEAL 22A-UI-17803-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Tyler B. Daniels, the claimant/appellant, filed an appeal from the September 27, 2022 (reference 05) unemployment insurance (UI) decision. The decision found Mr. Daniels was overpaid Lost Wage Assistance Payments (LWAP) benefits in the gross amount of \$1,500.00 for 5 weeks from July 26, 2020 through August 29, 2020 because IWD concluded that he did not report and/or incorrectly reported wages earned with the employer. The parties were properly notified of the hearing. A telephone hearing was held on November 1, 2022. Appeals 22A-UI-17799-DZ-T, 22A-UI-17800-DZ-T, 22A-UI-17801-DZ-T, 22A-UI-17802-DZ-T, and 22A-UI-17803-DZ-T were heard together and formed one hearing record. Mr. Daniels participated personally. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record and admitted Claimant's Exhibits A and B, and Department's Exhibits 1-7 as evidence.

ISSUES:

Did Mr. Daniels correctly report wages earned?
Has Mr. Daniels been overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Daniels began working for the employer on June 29, 2018 as a full-time minor league baseball pitcher. The employer paid him \$290.00 per weeks. Mr. Daniels filed his UI claim because the Commissioner of Major League Baseball (MLB) suspended play in the Minor Leagues, and suspended Mr. Daniels' contract due to the COVID-19 pandemic.

On March 20, 2020, the employer first notified Mr. Daniels that as of that date the employer would begin to send him a \$400.00 per week "**allowance**."¹ (Emphasis added.) On March 31, 2020, the Commissioner of MLB wrote a memo to all minor league players officially suspending play and suspending all players' contracts.² The Commissioner stated in the memo that the Commissioner "...recognize[d] the hardship that not receiving a paycheck will have on you and

¹ Claimant's Exhibit A.

² Claimant's Exhibit B.

your families," and told the players that all MLB Clubs had agreed to "**continue to pay players...**the sum of \$400 per week..." and "[p]layers who [were] already receiving financial assistance from the Clubs in some other form (e.g., under a Major League contract, free or subsidized housing, food, etc.) may receive a **reduced allowance** to reflect the benefits already being provided." ³ (Emphasis added.) The Commissioner further stated, "I know that for some of you this **stipend** is less than you would have **earned** if the season were played." ⁴ (Emphasis added.)

Mr. Daniels understood the Commissioner's memo to be saying that the \$400.00 payment was a stipend because the Commissioner had called it a stipend, and the Commissioner had cancelled the season so Mr. Daniels would not be working and earning money. Mr. Daniels also understood the \$400.00 payment to be a stipend because the memo stated that players who were already receiving housing and/or food assistance may have their \$400.00 payment reduced based on the housing and/or food assistance they were receiving. No one from the employer told Mr. Daniels that the \$400.00 payments were wages.

The employer sent Mr. Daniels the \$400.00 weekly payment for 21 weeks from March 29, 2020 through August 22, 2020, and the employer sent Mr. Daniels a \$342.84 payment for the week of August 23-29, 2020. ⁵ Mr. Daniels usually worked and earned a weekly wages from March through early September each year. Mr. Daniels used the \$400.00 to help pay for his housing and food.

In relevant part, Mr. Daniels filed weekly UI claims for 5 weeks from July 26, 2020 and August 29, 2020. To figure out if he should report the \$400.00 payments on his weekly UI claims, Mr. Daniels read online baseball advocacy forums. Mr. Daniels concluded, based on the information from the online forums, that he did not need to report the \$400.00 on his UI claim because it was a stipend for housing and food and not wages. Mr. Daniels did not contact IWD about this issued because he had already concluded that he did not need to report the money on his UI claim based on the information from the online forums. Mr. Daniels reported gross wages of \$0.00 each week for those 5 weeks. IWD had set Mr. Daniels' weekly UI benefit amount at \$140.00. Based on the wages he reported, IWD paid Mr. Daniels REGULAR (state) UI benefits for those 5 weeks. IWD also paid Mr. Daniels LWAP benefits in the total gross amounts of \$1,500.00, or \$300.00 each week for the 5 weeks.

The Lost Wage Assistance Program was created by presidential Executive Order 8, signed on August 8, 2020. To receive LWAP benefits in any given week, a claimant must be eligible to receive at least \$100.00 in unemployment benefits per week, and the individual must self-certify that he or she is unemployed or partially unemployed as a result of the COVID-19 pandemic.

IWD conducted an audit of Mr. Daniels' wages in October 2020. On October 14, 2020, IWD asked the employer to report Mr. Daniels weekly gross wages for the 14 weeks from March 29, 2020 through July 4, 2020. On October 26, 2020, the employer reported to IWD that Mr. Daniels had earned gross wages of \$400.00 each week for those 14 weeks. On August 3, 2022, IWD asked the employer to report Mr. Daniels weekly gross wages for the 11 weeks from July 5, 2020 through September 19, 2020. On August 8, 2020, the employer reported to IWD that Mr. Daniels had received a \$400.00 "**COVID-19 stipend**" each week for 7 weeks from July 5, 2020 through August 22, 2020, a \$342.84 "**COVID-19 stipend**" for the week of

³ *Id.*

⁴ *Id.*

⁵ Department's Exhibit 1.

August 23-29, 2020, and \$0.00 each week for the 3 weeks from August 30, 2020 through September 19, 2020.⁶ (Emphasis added.)

On September 7, 2022, IWD sent Mr. Daniels a notice of audit, which stated that he may have been overpaid UI benefits in the total gross amount of \$14,775.05 between March 29, 2020 and August 29, 2020, because he did not report and/or incorrectly reported her earnings from employer Houston Astros LLC.⁷ The notice also scheduled an interview for September 13, 2022, and informed Mr. Daniels that an overpayment may result in consequences, including a 15 percent penalty.⁸ The interview was rescheduled to September 15, 2022 and Mr. Daniels participated in the interview.⁹ Mr. Daniels explained that he did not report the \$400.00 on his UI claim because he believed, based on the Commissioner's memo, that the \$400.00 was a stipend for housing and food and not wages.¹⁰

IWD concluded that \$400.00 was not a stipend but wages because the employer had "indicated" to IWD that the employer had withheld taxes on the \$400.00, and "it sounds like t[he] employer...reported [the \$400.00] as wages."¹¹ The employer did not participate in the hearing and provided no further details about weekly \$400.00 payment. IWD did not participate in the hearing and provided no further detail about its conclusion that the \$400.00 were wages and not a stipend.

Over two years after he filed his initial claim effective March 15, 2020, and after IWD had already sent him REGULAR (state) UI benefits, and LWAP benefits, IWD issued a September 27, 2022 (reference 02) UI decision finding Mr. Daniels was overpaid Pandemic Emergency Unemployment Compensation (PEUC) UI benefits from June 21, 2020 through August 29, 2020 because he had incorrectly reported wages earned with this employer. Mr. Daniels appealed that decision. The administrative law judge's decision in Appeal 22A-UI-17800-DZ-T affirmed the reference 02 UI decision. That means Mr. Daniels was entitled to \$0.00 in PEUC UI benefits from June 21, 2020 through August 29, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes: Mr. Daniels has been overpaid LWAP benefits.

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.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Department's Exhibit 3

¹⁰ *Id.*

¹¹ Department's Exhibit 1.

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.

Since Mr. Daniels incorrectly reported his wages for 5 weeks from July 26, 2020 through August 29, 2020, and he is entitled to \$0.00 in PEUC benefits for those weeks, he is also not entitled to LWAP benefits for those weeks. Mr. Daniels has been overpaid LWAP benefits in the gross amount of \$1,500.00 for 5 weeks from July 26, 2020 and August 29, 2020.

DECISION:

The September 27, 2022 (reference 05) UI decision is AFFIRMED. Mr. Daniels has been overpaid LWAP benefits in the gross amount of \$1,500.00, which must be repaid.



Daniel Zeno
Administrative Law Judge

November 10, 2022
Decision Dated and Mailed

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NOTE TO MR. DANIELS:

- This decision determines you have been overpaid LWAP benefits. If you disagree with this decision, you may file an appeal by following the instructions on the last page of this decision.
- **You may also request a waiver of this overpayment by 1) applying for a waiver online, 2) applying for a waiver in writing by mail, or 3) filing an appeal.**
- The **online waiver request form** is available on the Iowa Workforce Development website at: <https://www.iowaworkforcedevelopment.gov/federal-unemployment-insurance-overpayment-recovery>
- The **written waiver request** must include the following information:
 - Your name & address.
 - Decision number/date of decision.
 - Dollar amount of overpayment requested for waiver.
 - Relevant facts that you feel would justify a waiver.
- The request should be sent to:

Iowa Workforce Development
Overpayment waiver request
1000 East Grand Avenue
Des Moines, IA 50319
- If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.
- To check on your waiver application call **888-848-7442** or email iwduitax@iwdiowa.gov

APPEAL RIGHTS. If you disagree with this 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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.