

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

MICHAEL R KERR
Claimant

APPEAL NO: 22A-UI-09582-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/03/20
Claimant: Appellant (2)**

PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 2, 2021, (reference 03) unemployment insurance decision that concluded he was overpaid \$6,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits. After proper notice, a telephone hearing was conducted on January 11, 2022. The claimant participated and testified. The employer did not participate. The administrative law judge, Liz Johnson, issued a decision, 21A-UI-25197-LJ-T, granting benefits based on the conclusion he was discharged for a non-disqualifying act. Ms. Johnson also reversed the accompanying overpayment decisions on appeal in 21A-UI-25198-LJ-T, 21A- UI-25199-LJ-T, and 21A- UI-25200-LJ-T.

On February 10, 2022, the employer, Baker Group, appealed 21A-UI-25197-LJ-T to the Employment Appeal Board (EAB). The EAB remanded the case back to the Appeals Bureau to take additional testimony and to give the employer a chance to participate. An appeal was set for May 31, 2022. The hearing was held jointly with appeal 22A-UI-09580-SN-T, 22A-UI-09582-SN-T and 22A-UI-09583-SN-T. After proper notice, a telephone hearing was conducted on May 31, 2022. The hearing was held jointly with appeal 22A-UI-09580-SN-T, 22A-UI-09582-SN-T and 22A-UI-09583-SN-T. The claimant participated. Official notice of the administrative records was taken.

ISSUE:

Is the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 3, 2020.

The claimant received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$6,000.00 in federal benefits for the period of May 3, 2020 and July 11, 2020.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been reversed in a decision of the administrative law judge in appeal 21A-UI-25199-LJ-T. The employer did not appear for their appeal on May 31, 2022.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid FPUC benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

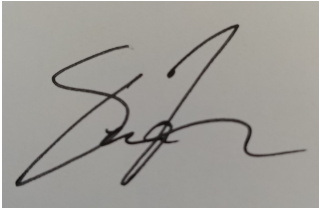
(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is not disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, the claimant is entitled to receive Federal Pandemic Unemployment Compensation (FPUC). The claimant was not overpaid \$6,000.00 in Federal Pandemic Unemployment Compensation (FPUC). The claimant is entitled to the benefits he received.

DECISION:

The unemployment insurance decision dated November 2, 2021, (reference 03), is reversed. The claimant was not overpaid \$6,000.00 in Federal Pandemic Unemployment Compensation (FPUC).

A rectangular box containing a handwritten signature in black ink. The signature is stylized and appears to read 'Sean M. Nelson'.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

July 28, 2022
Decision Dated and Mailed

smn/kmj

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 adquiera 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