

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JASON RUPP**

Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 24A-UI-01012-AR-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/10/23**

**Claimant: Appellant (2)**

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

Iowa Code § 96.5(5) – Benefit Deductions

Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment

**STATEMENT OF THE CASE:**

On January 25, 2024, the claimant filed an appeal from the January 19, 2024, (reference 02) unemployment insurance decision that determined claimant was overpaid unemployment insurance benefits in the amount of \$556.00 for the two-week period ending December 23, 2023, due to a failure to properly report wages. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2024. Claimant, Jason Rupp, participated. The agency, Iowa Workforce Development (IWD), did not participate. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was the claimant overpaid regular unemployment insurance benefits?

Was claimant totally, partially, or temporarily unemployed?

Did claimant correctly report wages earned?

Is claimant eligible for benefits based on wages earned?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed by Quaker Manufacturing as a machine operator. He has worked full-time hours in this position since 2002. He is paid at a rate of \$37.88 per hour.

Claimant filed an original claim for unemployment insurance benefits with an effective date of December 10, 2023, due to a temporary layoff. His weekly benefit amount is \$626.00.

During the layoff period, claimant worked no hours and earned no wages with the employer. However, the employer compensated him based on his unemployment insurance benefit

amount with a "wage guarantee" up to 70% of his wages. He received \$434.64 each week of the layoff to bring his weekly income to 70% of his standard wages.

Claimant filed weekly continuing claims through the week that ended December 23, 2023. For those two weeks, claimant performed no work and earned no wages with the employer. He received his full unemployment insurance benefit payment each week in the amount of \$626.00. Claimant did not report the wage guarantee payments on his weekly continuing claims.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code section 96.3(7) states:

### **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.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

### **5. Other compensation.**

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the

week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Administrative Code rule 871—24.13(4) sets forth a list of payments that IWD does not consider "wages" and that it will not deduct from UI benefits:

The following payments are not considered as wages and are not deductible from benefits:

- a. Self-employment income. However, the individual must meet the benefit eligibility requirements of Iowa Code section 96.4(3).
- b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.
- c. Remuneration for work performed by the individual claiming benefits in exchange for county relief in the form of groceries, rent, etc.
- d. Payment for unused sick leave.
- e. National guard duty pay. This includes reserve unit drill pay for any branch of the armed service.
- f. Supplemental unemployment benefit plans approved by the department. See 871—subrule 23.3(1), paragraph "e," for criteria and employer procedure for obtaining department approval.

Iowa Administrative Code rule 871—23.3(2)(e) contains a detailed definition of "wages." This rule includes a subsection explaining supplemental unemployment benefit plans ("SUBs"). It states in pertinent part:

The term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ, under a plan or system established by such employing unit, with approval of the department. Such plan or system must make provision for payment to a trust fund or similar account on behalf of individuals performing services for it. The account must be used to pay supplemental unemployment benefits to such employing unit's employees over and above any sum to which such employees might be entitled under the provisions of the state employment security law. Such payments to employees

are not remuneration for the purposes of reducing or preventing payment of unemployment benefits.

The evidence in the record indicates that the payments made by the employer during the layoff period are supplemental unemployment benefit payments, which do not qualify as wages. Because the payments were not wages, claimant was not required to report them when filing his weekly continuing claims. Claimant performed no work and earned no wages with the employer for the two-week period between December 10 and 23, 2023. He accurately reported that he had earned no wages during that time period. He was entitled to his full unemployment benefit payment. Claimant has not been overpaid unemployment insurance benefits for the period between December 10 and 23, 2023.

**DECISION:**

The January 19, 2024, (reference 02) unemployment insurance decision is REVERSED. Claimant was not overpaid unemployment insurance benefits for the weeks between December 10, 2023, and December 23, 2023.



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Alexis D. Rowe  
Administrative Law Judge

February 29, 2024  
Decision Dated and Mailed

ar/scn

**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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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 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.