

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 13IWDUI467  
**OC:** 12/18/11  
**Claimant:** Appellant (1)

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**CHASE ROBINSON  
5527 STOVE AVENUE  
SIOUX CITY, IA 51106-4228**

**IOWA WORKFORCE DEVELOPMENT  
INVESTIGATIONS AND RECOVERY  
1000 EAST GRAND AVENUE  
DES MOINES IA 50319-0209**

JONI BENSON, IWD  
DAVE EKLUND, IWD

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des Moines, Iowa 50319.**

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the Department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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November 22, 2013

(Dated and Mailed)

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Iowa Code section 96.2(2) – Timely Appeal  
Iowa Code section 96.3(7) – Recovery of Overpayment of Benefits  
Iowa Code section 96.16(4) – Misrepresentation

**STATEMENT OF THE CASE**

Chase Robinson filed an appeal from a decision issued by Iowa Workforce Development (IWD) dated August 23, 2013, reference 05. In this decision, IWD determined that Mr. Robinson was overpaid \$1,386 in unemployment insurance benefits for the period between July 1, 2012 and August 18, 2012. The decision stated that the overpayment resulted from the claimant failing to report or incorrectly reporting wages. The decision

further found that the overpayment was the result of misrepresentation by Mr. Robison.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on September 30, 2013, for scheduling of a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on October 3, 2013, setting a hearing on November 22, 2013. Notice went to the claimant at his address of record, the same address that appears on the appeal request. This notice was not returned in the mail. On November 22, 2013, a telephone appeal hearing came before Administrative Law Judge Robert H. Wheeler. The appellant did not appear and the respondent IWD also did not appear. The administrative file entered the record without objection, and this decision is based on that written record .

### **ISSUES**

Whether the claimant filed a timely appeal.

Whether IWD correctly determined that the claimant was overpaid unemployment insurance benefits.

Whether IWD correctly determined that an overpayment was the result of misrepresentation on the part of the claimant.

### **FINDINGS OF FACT**

Chase Robison filed a claim for unemployment benefits on February 5, 2012. Mr. Robison made claims for and received unemployment benefits between July 1, 2012, and August 18, 2012, at a time when he was working and earning wages.

IWD conducted an audit of Mr. Robison's unemployment claim. The audit determined that Mr. Robison's failure to report wages and incorrectly reporting wages from his employer at a time when he was earning such wages resulted in an overpayment of unemployment benefits in the amount of \$1,386.

IWD sent Mr. Robison a preliminary audit notice and a notice to respond to the overpayment situation. Mr. Robison did not respond.

On August 23, 2013, IWD issued a decision to Mr. Robison notifying him that he was overpaid by \$1,386, as a result of misrepresentation. Mr. Kenens dated his appeal of this decision on September 23, 2013, and it was received by IWD on that same date.

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

#### **A. Timely Appeal**

Iowa Code section 96.6 (2) provides (in pertinent part),

“...Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant’s last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

The decision at issue advised Mr. Robinson that it would become final unless an appeal was postmarked or received by 9/02/13. No appeal was received in that time period. The August 23, 2013, decision became final by operation of law on September 2, 2013, ten calendar days after the decision. The appeal in this matter followed the decision being appealed by thirty days. This appeal was not timely, and there is no need to address the merits of the appeal further because the time limit is jurisdictional.

### **DECISION**

Iowa Workforce Development’s decision dated August 23, 2013, reference 05, is **AFFIRMED**; the claimant was overpaid unemployment insurance benefits in the amount of \$1,386, as a result of his misrepresentation.

rhw