

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEAN T WITTBOLDT
Claimant

APPEAL 22A-UI-07716-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/22/20
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On March 29, 2022, the claimant/appellant filed an appeal from the March 18, 2022, (reference 07) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$2,412.00 as a result of a disqualification decision. The appellant was properly notified of the hearing. A telephone hearing was held on May 11, 2022. The hearing was held together with appeals 22A-UI-07715-CS-T; 22A-UI-07717-CS-T; 22A-UI-07719-CS-T; 22A-UI-07720-CS-T; 22A-UI-07722-CS-T; and 22A-UI-07723-CS-T, and combined into one record. The claimant participated. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit A was admitted into the record.

ISSUES:

- I. Is claimant's appeal timely?
- II. Is the claimant overpaid benefits which must be repaid?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on March 18, 2022. The appellant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by March 28, 2022. The appeal was not filed until March 29, 2022, because claimant thought he had filed the appeal. Claimant realized he did not receive a confirmation email from the appeals bureau so he filed the appeal again the next day.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 22, 2020. Claimant's weekly benefit amount was \$268.00. The claimant filed for and received a total of \$2,412.00 in unemployment insurance benefits for the weeks between March 22, 2020 through May 23, 2020.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 22A-UI-07715-CS-T.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant has been overpaid benefits. For the reasons that follow the administrative law judge finds claimant was overpaid unemployment insurance benefits.

Iowa Code § 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.

The decision disqualifying the claimant for not being available for work from March 20, 2020, through May 23, 2020, has been affirmed. As a result, the claimant was overpaid \$2,412.00 in unemployment insurance benefits for the weeks between March 22, 2020, through May 23, 2020.

DECISION:

The claimant's appeal is timely.

The unemployment insurance decision dated March 18, 2022 (reference 07), is AFFIRMED. The claimant was overpaid \$2,412.00 in unemployment insurance benefits, which must be repaid.



Carly Smith
Administrative Law Judge

June 6, 2022
Decision Dated and Mailed

cs/scn

NOTE TO CLAIMANT: This decision determines you have been overpaid regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.