

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

**BENJAMIN N KNIGHT**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL NO. 24A-UI-03112-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20  
Claimant: Appellant (4)**

Iowa Code § 96.3(7) Recovery of Benefit Overpayment – Lost Wages Assistance Program  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.5(5) – Wages  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

**STATEMENT OF THE CASE:**

On March 20, 2024, the claimant, Benjamin Knight, appealed the March 13, 2024, (reference 08) decision that concluded the claimant was overpaid Lost Wages Assistance Program (“LWAP”) benefits in the amount of \$1,800.00 for the 6-week period ending September 5, 2020. A telephone hearing was held on April 16, 2024, pursuant to due notice and was consolidated with the hearing for 24A-UI-03111-ED-T and 24A-UI-03110-ED-T. The claimant, Benjamin Knight, participated. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant overpaid LWAP benefits?  
Is the claimant totally, partially or temporarily unemployed?  
Did the claimant correctly report wages earned?  
Is the claimant eligible for benefits based on the wages earned?

**FINDINGS OF FACT:**

Claimant established a claim for unemployment insurance benefits with an effective date of April 5, 2020. Claimant’s weekly benefit amount (WBA) was \$591.00.

Claimant worked for both the Johnston Community School District and Street Smarts in 2020 and 2021. He was employed as a teacher with Johnston Community School District earning \$79,476 in the 2019-2020 school year and earning \$81,070.00 in the 2020-2021 school year. The claimant earned \$21.00 per hour in 2020 working for Street Smarts as a behind the wheel drive instructor. He earned \$22.00 per hour in 2021 working for Street Smarts as a behind the wheel drive instructor. .

Claimant filed weekly continued claims for the period of May 31, 2020 through November 14, 2020. During this period, claimant was temporarily unemployed from his employer, Street Smarts. He remained employed on a full-time basis with his employer, Johnston Community School District.

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed for and has received LWAP benefits in the gross amount of \$1,800.00 for the 6-week period ending September 5, 2020. On March 13, 2024, Iowa Workforce Development (IWD) issued a decision (reference 06) that denied claimant UI benefits. That decision has been affirmed. See 24A-UI-03112-ED-T.

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

The administrative law judge concludes claimant has been overpaid LWAP benefits for the period in question.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

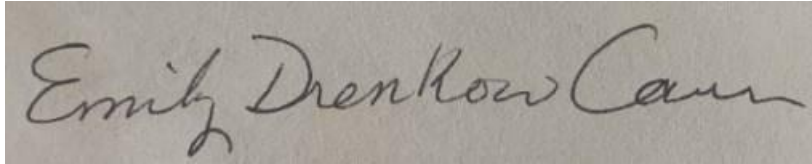
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by 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.

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.

The decision that denied claimant regular unemployment insurance benefits remains in effect. Because claimant is not eligible for regular UI benefits, claimant is also not eligible for LWAP benefits. Therefore, the claimant has received LWAP benefits to which they were not entitled. The administrative law judge concludes that the claimant has been overpaid LWAP benefits in the amount outlined in the findings of fact above. Claimant is obligated to repay the LWAP benefits unless repayment of this obligation is waived. Instructions on how to apply for a waiver are found below. There was no evidence that the claimant intentionally misrepresented his wages and no penalty for fraud shall be imposed. The administrative law judge concludes therefore, that the overpayment was correctly calculated but the 15% penalty shall not be applied.

**DECISION:**

The March 13, 2024 (reference 08) decision is modified in favor of the appellant. Claimant has been overpaid LWAP benefits in the amount of \$1,800.00, which must be repaid but no 15% penalty shall be imposed.

A handwritten signature in cursive script that reads "Emily Drenkow Carr". The signature is written in dark ink on a light-colored, slightly textured background.

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Emily Drenkow Carr  
Administrative Law Judge

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April 22, 2024  
Decision Dated and Mailed

ED/jkb

**NOTE TO CLAIMANT:**

- 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. The written request must include the following information:
  1. Claimant name & address.
  2. Decision number/date of decision.
  3. Dollar amount of overpayment requested for waiver.
  4. 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

- This Information can also be found on the Iowa Workforce Development website at: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

**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**  
**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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

**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 file a petition for judicial review in district court.

2. If you do not file 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 [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**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  
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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

**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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**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.