

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

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**MICHAEL R KERR**  
Claimant

**APPEAL NO: 22A-UI-09583-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

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

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Iowa Code § 96.3(7) – Lost Wage Assistance (LWA)

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 2, 2021, (reference 04) unemployment insurance decision that concluded he was overpaid \$1,800.00 in LWA 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-09581-SN-T and 22A-UI-09582-SN-T. The claimant participated. Official notice of the administrative records was taken.

**ISSUES:**

Has the claimant been LWA benefits?

**FINDINGS OF FACT:**

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

The claimant filed for and received a total of \$1,800.00 in LWA benefits for the weeks between July 25, 2020 and September 5, 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-25200-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 LWA benefits.

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

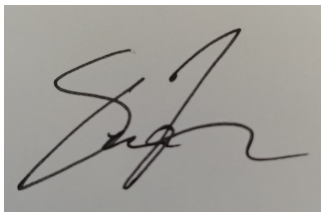
7. Recovery of overpayment of benefits.

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.

Since the decision disqualifying the claimant has been reversed, the claimant was not overpaid \$1,800.00 in LWA benefits.

**DECISION:**

The unemployment insurance decision dated November 2, 2021, (reference 04), is reversed. The claimant was not overpaid \$1,800.00 in LWA benefits.



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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

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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  
4<sup>th</sup> 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  
4<sup>th</sup> 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