

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VERNE F BRACKETT
Claimant

INTREN, LLC
Employer

APPEAL 22A-UI-05887-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/15/19
Claimant: Appellant (1)**

Iowa Code § 96.3-7 - Recovery of Overpayment of Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated February 25, 2022, (reference 03) that concluded the claimant was overpaid \$1,105.00 in unemployment insurance benefits due to a failure to report wages earned from Intren, LLC. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 18, 2022, and was consolidated with the hearing for appeal 22A-UI-05892-S2-T. Claimant Verne F. Brackett participated personally. Employer Intren, LLC did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked full-time as a groundman for employer. He filed a claim for unemployment insurance benefits with an effective date of December 15, 2019, due to working reduced hours at Intren, LLC. Claimant filed for and received a total of \$1,105.00 in regular unemployment insurance benefits for the weeks ending August 1, August 8, and September 24, 2020. Claimant worked less than his full-time hours during those weeks. During the two weeks ending August 8, 2020, claimant did not report the wages earned from employer which were in excess of \$496.00, his weekly benefit amount plus \$15.00. During the week ending September 26, 2020, claimant reported earning \$160.00, when he actually earned \$303.20. Claimant made a mistake and failed to report his earnings.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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.

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when an individual has received no wages and performed no services during any given week. *Id.* An individual who is totally unemployed has been permanently separated from an employer, whereas an individual who is temporarily unemployed has not been permanently separated from employment. To be partially unemployed, an individual must be working less than their regular full-time work week and earn less than their weekly benefit amount plus fifteen dollars. *Id.*

Here, claimant worked less than his full-time work week but failed to report his wages earned. During the two-week period ending August 8, 2020, claimant failed to report his wages earned

from Intren, LLC which were in excess of \$496.00, or his weekly benefit amount plus fifteen dollars. He was therefore not entitled to any benefits during those two weeks. During the week ending September 26, 2020, claimant underreported his wages, and he was overpaid benefits. Due to failing to correctly report his wages, claimant he was overpaid \$1,105.00 in unemployment insurance benefits and those benefits must be repaid.

DECISION:

The decision of the representative dated February 25, 2022, (reference 03) is affirmed. The claimant did not correctly report his wages. He was overpaid regular state unemployment insurance benefits in the amount of \$1,105.00 to which he was not entitled, and those benefits must be recovered in accordance with the law.



Stephanie Adkisson
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April 21, 2022
Decision Dated and Mailed

sa/jh