

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JOHN KAYSER
204 FAIRVIEW DRIVE
MANCHESTER, IA 52057

IOWA WORKFORCE DEVELOPMENT
CONNIE DYKSTRA, INVESTIGATOR

JONI BENSON, IWD
JODI DOUGLAS, IWD

Appeal Numbers: 16IWDUI027

OC: 12/21/14

Claimant: Appellant (1)

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 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.

(Administrative Law Judge)

March 29, 2016

(Decision Dated & Mailed)

Iowa Code section 96.3-7 - Recovery of Overpayment of Benefits
Iowa Code section 96.5-8 – Administrative Penalty

STATEMENT OF THE CASE

Claimant/Appellant John Kayser filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated December 15, 2015, reference 03. IWD determined Kayser was overpaid unemployment insurance benefits because IWD’s records indicated Kayser failed to report earnings and did so to receive unemployment insurance benefits from October 14, 2014 through August 22, 2015. IWD imposed an overpayment amount of \$6044 and added a 15% administrative penalty due to misrepresentation.

IWD transmitted the case to the Department of Inspections and Appeals on January 26, 2016 to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Kayser.

On February 26 2016 a contested case hearing was held. Connie Dykstra appeared and testified on behalf of IWD. John Kayser appeared and testified on his own behalf. IWD Exhibits A –P were admitted into evidence without objection. Kayser submitted documents from Life Lock that have been marked Exhibit 1.

ISSUES

Did the Department correctly determine that the claimant was overpaid unemployment benefits and if so, did the Department correctly calculate the overpayment?

Did the Department correctly determine the overpayment was the result of misrepresentation?

FINDINGS OF FACT

Connie Dykstra testified that the Department completed an audit of the reported wages of the claimant John Kayser. IWD submitted documents indicating that Kayser received wages from Deere & Co in Waterloo at the same time that he was receiving unemployment benefits. The IWD document shows that this occurred for several weeks from October 4, 2014 through August 22, 2015 (Ex B). IWD submitted multiple documents showing that Kayser continually misrepresented that he was unemployed during periods when he was receiving wages from Deere (Dykstra Testimony; Exs B- P). At the hearing, Kayser initially maintained that his identity was stolen from him. He stated that he thinks the person who stole his identity is “doing all of this crap”. At the close of the hearing Kayser stated that he felt that he was in over his head. He stated that he did not dispute the overpayment amount or the Department’s claim that he misrepresented his wages while receiving unemployment benefits (Kayser Testimony).

REASONING AND CONCLUSIONS OF LAW

When IWD determines an individual who received unemployment benefits was ineligible to receive benefits, IWD must recoup the benefits received irrespective of whether the individual acted in good faith and was not otherwise at fault.¹ IWD may, in its discretion, recover the overpayment either by having a sum equal to the overpayment deducted from any future benefits payable to the individual, or by having the individual pay IWD a sum equal to the overpayment.²

An individual is totally unemployed in any week the individual has no payable wages.³ An individual is deemed partially unemployed when the individual works less than the

¹ Iowa Code § 96.3(7) (2015).

² *Id.*

³ *Id.* § 96.19(38)a.

individual's regular full-time week and earns less than the individual's weekly benefit, plus \$15.⁴ An individual who is totally unemployed in any week must be paid benefits equal to the individual's weekly benefit amount.⁵ An individual who is partially unemployed shall be paid an amount equal to the individual's weekly benefit amount, less the portion of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount.⁶ The benefit amount is rounded to the lower multiple of one dollar.⁷

After listening to the testimony of the IWD representative, Kayser stated that he did not contest the amount of the overpayment or the IWD allegation of misrepresentation. The Department decision is therefore affirmed.

DECISION

IWD's decision dated December 17, 2015, reference 03 is affirmed.

⁴ *Id.* § 96.19(38)b(1).

⁵ *Id.* § 96.3(2).

⁶ *Id.* § 96.3(3).

⁷ *Id.*