

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SAMANTHA S SEIBERT
Claimant

APPEAL NO. 21A-UI-07158-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 04/12/20
Claimant: Appellant (4)

Iowa Code Section 96.3(7) – Overpayment of Benefits, Lost Wages Assistance Payments

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 2, 2021, reference 04, decision that concluded she had been overpaid \$1,800.00 in Lost Wages Assistance Payments (LWAP) for six weeks ending September 5, 2020, based on a September 22, 2020 Employment Appeal Board decision that disqualified the claimant for benefits in connection with a discharge from employment. After due notice was issued, a hearing was held on May 1, 2021. The claimant participated in the hearing. There were three appeal numbers set for an consolidated hearing: 21A-UI-07155-JTT, 21A-UI-07156-JTT and 21A-UI-07158-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, the June 29, 2020 (reference 01) decision, the administrative law judge decision in Appeal Number 20A-UI-07415-B2T

ISSUE:

Whether the claimant was overpaid \$1,800.00 in Lost Wages Assistance Payments (LWAP) for six weeks ending September 5, 2020, based on a September 22, 2020 Employment Appeal Board decision that disqualified the claimant for benefits in connection with a discharge from employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective April 12, 2020. The claimant received \$7,811.77 in regular benefits for the period of April 12, 2020 through September 19, 2020. The claimant received \$8,400.00 in Federal Pandemic Unemployment Compensation (FPUC) for 14 weeks between April 12, 2020 and July 25, 2020. The claimant received \$1,500.00 in Lost Wages Assistance Payments for five weeks between July 26, 2020 and August 29, 2020.

On June 29, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was discharged from employment with McDermott Oil Company for no disqualifying reason. The employer appealed the decision. On August 14, 2020, an administrative law judge entered a decision in Appeal Number

20A-UI-07415-B2T that affirmed the reference 01 decision. The employer appealed the administrative law judge's decision. On September 22, 2020, the Employment Appeal Board entered a decision in Hearing Number 20B-UI-07415 that reversed the administrative law judge's decision. The Employment Appeal Board held that the claimant was disqualified for benefits, based on the Board's determination that the claimant was discharged on March 24, 2020 for disqualifying misconduct in connection with the employment. Based on the rule of two affirmances, the Board held that the claimant was not required to repay the regular unemployment insurance benefits received, but held the claimant could be assessed for the FPUC benefits she received. The Board did not address LWAP benefits. See Hearing Number 20B-UI-07415, page 3. The claimant did not file a petition for judicial review to challenge the Board's decision and the Board's decision became final.

REASONING AND CONCLUSIONS OF LAW:

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.

Because the Board's decision disqualified the claimant for unemployment insurance benefits, the \$1,500.00 in LWAP benefits that the claimant received for the five weeks between July 26, 2020 and August 29, 2020 is an overpayment of benefits. The claimant is required to repay the overpaid LWAP benefits.

DECISION:

The March 2, 2021, reference 04, decision is modified in favor of the claimant/appellant as follows. The claimant was overpaid \$1,500.00 in LWAP benefits five weeks between July 26, 2020 and August 29, 2020. The claimant is required to repay the overpaid LWAP benefits.



James E. Timberland
Administrative Law Judge

August 31, 2021
Decision Dated and Mailed

jet/mh