

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSHUA L. ANDREWS
Claimant

GEHRKE INC
Employer

APPEAL 22A-UI-07800-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/17/21
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.1A(37)a & b – Total and Partial Unemployment
Iowa Code § 96.5(5)-Compensation

STATEMENT OF THE CASE:

On March 21, 2022, the claimant/appellant filed an appeal from the March 10, 2022, (reference 04) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,431.00 as a result of incorrectly reported wages decision. The parties were properly notified of the hearing. A telephone hearing was held on May 11, 2022. The hearing was held together with appeals 22A-UI-07802-CS-T and combined into one record. The claimant participated. The employer participated through Payroll Specialist, Pam Schwarck. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit D-1 was admitted into the record.

ISSUES:

- I. Is claimant totally, partially or temporarily unemployed?
- II. Did the claimant correctly report wages earned?
- III. Was the claimant was overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for unemployment insurance benefits effective January 17, 2021. Claimant's weekly benefit amount was \$493.00. In January 2021 claimant worked for the employer as a laborer earning \$22.00 per hour.

Claimant filed for benefits for the week ending January 23, 2021. Claimant reported \$220.00 in wages for the week. Claimant actually worked 26 hours and earned \$572.00 for the week ending January 23, 2021. (Exhibit D-1, pg. 1). Claimant received \$396.00 in state unemployment benefits for the week.

For the week ending January 30, 2021, claimant filed a weekly claim and reported \$450.00 in earned wages. Claimant worked 41 hours and earned \$1,089.00 for the week ending January 30, 2021. (Exhibit D-1, pg. 1). Claimant received \$166.00 in state unemployment insurance benefits.

For the week ending February 13, 2021, claimant reported that he earned \$400.00 in earned wages. Claimant worked 38.5 hours and earned \$968.00 for the week ending February 13, 2021. (Exhibit D-1, pg. 1). Claimant received \$216.00 in state unemployment insurance benefits for the week ending February 13, 2021.

For the week ending February 27, 2021, claimant reported that he earned \$420.00 in earned wages. Claimant worked 37.5 hours and earned \$869.00 in wages. (Exhibit D-1, pg. 1). Claimant received \$196.00 in state unemployment benefits.

For the week ending March 6, 2021, claimant reported that he earned \$475.00 in earned wages. Claimant worked 40.5 hours and earned \$896.50 in wages. (Exhibit D-1, pg. 1). Claimant received \$141.00 in state unemployment benefits.

For the week ending March 20, 2021, claimant reported that he earned \$300.00 in earned wages. Claimant worked 29 hours and earned \$638.00 in wages. (Exhibit D-1, pg. 1). Claimant received \$316.00 in state unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.3(7) states:

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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to

that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

In order to be considered partially unemployed for a week the claimant needed to earn less than his weekly benefit plus \$15.00 (\$493.00 + \$15.00= \$508.00). In the week ending January 23, 2021, January 30, 2021, February 13, 2021, February 27, 2021, March 6, 2021, and March 20, 2021, claimant earned over \$508.00. Since claimant earned over \$508.00 each of these weeks he was not entitled to benefits.

The administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$1,431.00 for the six-weeks ending January 23, 2021, January 30, 2021, February 13, 2021, February 27, 2021, March 6, 2021, and March 20, 2021. Claimant is required to repay those benefits.

DECISION:

The March 10, 2022 (reference 04) unemployment insurance decision is AFFIRMED. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$1,431.00 for the six-weeks ending January 23, 2021, January 30, 2021, February 13, 2021, February 27, 2021, March 6, 2021, and March 20, 2021. These benefits must be repaid.



Carly Smith
Administrative Law Judge

June 7, 2022
Decision Dated and Mailed

cs/scn