

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

Appeal Number: 13IWDUI167
OC: 02/24/13
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

KRYSTAL MERRIFIELD
28925 360TH STREET LOT 70
BOONEVILLE, IA 50038

INVESTIGATIONS AND RECOVERY, IWD
IRMA LEWIS, INVESTIGATOR

JONI BENSON, IWD

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 written 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)

July 3, 2013

(Dated and Mailed)

Iowa Code section 96.5-8 – Administrative Penalty
Iowa Code section 96.4-3 – Ineligibility for Benefits

STATEMENT OF THE CASE

Claimant/Appellant Krystal Merrifield filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated March 21, 2013, reference 02, finding she was ineligible to receive unemployment insurance benefits because she made false statements concerning her employment and earnings and did so to receive unemployment insurance benefits from October 10, 2010 until March 5, 2011. IWD

imposed an administrative penalty from March 17, 2013 until the end of the benefit year on February 22, 2014.

IWD transmitted the case to the Department of Inspections and Appeals on April 1, 2013 to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Merrifield. Hearing was originally set for May 13, 2013. The hearing was continued to allow IWD to properly submit all of its Exhibits to the Appellant and the Administrative Law Judge. Additional Exhibits were submitted by Irma Lewis on behalf of IWD prior to the rescheduled hearing.

On July 1, 2013, a contested case hearing was held before Administrative Law Judge Emily Kimes-Schwiesow. Merrifield failed to appear. Lewis appeared and testified on behalf of IWD. Exhibits 1 through 14 were admitted into the record.

ISSUES

Whether the Department correctly imposed an administrative penalty on the basis of false statements made by the Claimant.

Whether the Department correctly determined the claimant is ineligible to receive unemployment insurance benefits.

FINDINGS OF FACT

IWD conducted an audit and discovered Merrifield received wages from Compass One from October 10, 2010 through March 5, 2011 but failed to report the wages. An overpayment of unemployment insurance benefits resulted. Merrifield did not appeal the overpayment. Lewis requested Merrifield respond to an inquiry regarding the overpayment and the potential administrative penalty on her subsequent claim by March 18, 2013. Merrifield submitted a letter indicating she did not understand that she was to report earnings from other employers. Merrifield did not appear for hearing to provide any additional information. Ms. Lewis testified that Merrifield had received unemployment insurance benefits previously in 2009 and 2010.

IWD issued a decision on March 21, 2013, reference 02, finding Merrifield was ineligible to receive unemployment insurance benefits because she made false statements concerning her employment and earnings and did so to receive unemployment insurance benefits from October 10, 2010 through March 5, 2011. IWD imposed an administrative penalty from March 17, 2013 until the end of the benefit year on February 22, 2014. Merrifield appealed the decision.

REASONING AND CONCLUSIONS OF LAW

IWD may impose an administrative penalty if an insured person has, within the preceding 36 calendar months, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact, with the

intent to defraud by obtaining benefits the person is not entitled to.¹ The person is disqualified for the week in which IWD makes the determination and forfeits all benefit rights to unemployment insurance benefits for a period of not more than the remaining benefit period as determined by IWD.² The IWD investigator exercises his or her discretion to determine the degree and severity of the penalty, based on the nature of the offense and facts.³

IWD's rules define intent as "the design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective."⁴ Fraud is defined as "the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself . . . ; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or [IWD], shall not act upon it to their, or its, legal injury."⁵

The governing statute and rules do not define the terms willfully and knowingly.⁶ Therefore, it is necessary to turn to the rules of statutory and regulatory interpretation. The purpose of statutory interpretation is to determine the true intent of the legislature.⁷ When the legislature has not defined the words of a statute, the Iowa Supreme Court looks to prior decisions of the court, similar statutes, dictionary definitions, and common usage.⁸ The rules of statutory interpretation also govern the interpretation of an administrative agency's rules.⁹ The courts construe administrative rules together, using "common sense and sound reason."¹⁰

Black's Law Dictionary defines knowing as "having or showing awareness or understanding" and "deliberate; conscious."¹¹ Willful is defined as "voluntary and intentional, but not necessarily malicious."¹²

Merrifield acknowledged she received an overpayment. She reported in her letter that she misunderstood the wage reporting requirements and her false statements were not intentional. Merrifield's explanation lacks credibility in light of her previous experience with unemployment insurance claims. Additionally, the rules regarding reporting are

¹ Iowa Code § 96.5(8).

² *Id.* § 96.5(8).

³ 871 IAC 25.9(2)c.

⁴ *Id.* 25.1.

⁵ *Id.*

⁶ Iowa Code section 96.16(5)b defines knowingly for purposes of the subsection as "having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the requirement or prohibition involved."

⁷ *Bob Zimmerman Ford, Inc. v. Midwest Automotive I, L.L.C.*, 679 N.W.2d 606, 609 (Iowa 2004).

⁸ *Id.* at 609 (citing *Bernau v. Iowa Dep't of Transp.*, 580 N.W.2d 757, 761 (Iowa 1998)).

⁹ *Messina v. Iowa Dep't of Job Serv.*, 341 N.W.2d 52, 56 (Iowa 1983).

¹⁰ *Id.*

¹¹ *Black's Law Dictionary* (7th Ed. 1999).

¹² *Id.*

readily available and claimants certify their understanding of the consequence of submitting false information each time they report (Exhibit 5).

Lewis testified Merrifield failed to correctly report her wages for 21 weeks while she requested and received weekly unemployment benefits. Merrifield did not appeal the overpayment determination. The information Merrifield provided to IWD was false. I conclude Merrifield's statements to IWD each week were willful and false statements knowingly made to receive benefits Merrifield was not entitled to receive. Imposition of an administrative penalty is appropriate.

IWD's rules afford the investigator discretion to determine the degree and severity of the penalty, based on the nature of the offense and facts.¹³ I cannot conclude Lewis' imposition of an administrative penalty from March 17, 2013 until the end of the benefit year on February 22, 2014, was in error. IWD's decision should be affirmed.

DECISION

IWD's decision dated March 21, 2013, reference 02, is AFFIRMED. IWD correctly imposed an administrative penalty disqualifying Merrifield from receiving unemployment insurance benefits from March 17, 2013 until the end of the benefit year on February 22, 2014.

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¹³ 871 IAC 25.9(2)c.