

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

**Appeal Number:** 15IWDUI001  
**OC:** 09/29/13  
**Claimant:** Appellant (1)

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**DANIEL REINSCH**  
**100 SE 6<sup>th</sup> STREET**  
**GRIMES, IA 50111-2174**

**IOWA WORKFORCE DEVELOPMENT**  
**MICHELLE SADDORIS, INVESTIGATOR**

JONI BENSON, IWD  
TERESA K. HILLARY, 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.

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(Administrative Law Judge)

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January 30, 2015  
(Dated and Mailed)

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Iowa Code §96.3(7) – Recovery of Overpayment Benefits  
Iowa Code §96.16(4) – Misrepresentation

**STATEMENT OF THE CASE**

Claimant/Appellant Daniel Reinsch appealed a decision issued by Respondent Iowa Workforce Development (IWD) on December 16, 2014, reference 01, finding he was overpaid in the amount of \$439.00 on his unemployment insurance benefits claim for a one week period, from 02/23/14 until 03/01/14, because he failed to report wages earned with Prairie Meadows Racetrack & Casino, and imposing a 15% administrative penalty due to misrepresentation. The appeal deadline for this decision was December 26, 2014. Daniel Reinsch submitted an appeal letter, dated December 17, 2014. The appeal was postmarked on December 21, 2014, and was received in the IWD Appeals Section on December 22, 2014. Mr. Reinsch requested an in-person hearing.

On December 26, 2014, IWD transmitted the case to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the appeal file to Mr. Reinsch, to the address on file.

On January 2, 2015, a Notice of In-Person Hearing was mailed to Daniel Reinsch at the address on file with IWD. The contested case hearing was scheduled on January 29, 2015 at 3:00 p.m. Daniel Reinsch appeared and testified during the hearing. Michelle Saddoris appeared and testified on behalf of IWD. Exhibits 1 through 15 and IWD Exhibits A1–A6, B1–B7, and C1, were all admitted into the record without objection.

### **ISSUES**

1. Whether IWD correctly determined that the Claimant was overpaid unemployment benefits, and, if so, whether the overpayment was correctly calculated.
2. Whether IWD correctly determined the overpayment was a result of misrepresentation.

### **FINDINGS OF FACT**

Some of the relevant evidence is undisputed. Some of the relevant evidence is in dispute.

Daniel Reinsch filed claims for unemployment insurance benefits and received unemployment insurance benefits through Iowa Workforce Development (IWD). (Saddoris testimony; Reinsch testimony; Exhibits A2, B4)

Daniel Reinsch began working and earning wages from Prairie Meadows Racetrack & Casino during the week beginning on February 23, 2014, and ending on March 1, 2014. (Exhibit A1, A2, B1; Saddoris testimony; Reinsch testimony) Specifically, he began working for this employer on February 24, 2014. (Exhibit B1) He worked 39 hours during this week, earning \$497. (Exhibits A1, A2) He filed a claim for unemployment insurance benefits, online, on March 3, 2014, at 8:47 am, stating that he had not worked or earned any wages during the week ending March 1, 2014. (Exhibit B4; Saddoris testimony) It appears that Daniel Reinsch typically filed his unemployment claims online, or via the internet. (Exhibit B4; Saddoris testimony)

In his appeal letter, Daniel Reinsch stated as follows: “I received unemployment benefits for two weeks that I did not file for. This was at the end of February. I had just recently started working at Prairie Meadows.” (Exhibit 4, B2) During the hearing, Daniel Reinsch did not remember exactly when he started working at Prairie Meadows. (Reinsch testimony)

Daniel Reinsch asserted that he stopped filing unemployment insurance claims when he started working. (Reinsch testimony; Exhibit 4, B2) However, when specifically asked about the claim filed via the internet on March 3, 2014, for the week ending March 1, 2014, he stated that he did not remember whether he filed or not. (Reinsch testimony; Exhibit B4)

Daniel Reinsch stated that he called IWD after the unemployment insurance benefits appeared in his account, told them he had extra money, and asked what to do about it. (Reinsch testimony; Exhibit 4, B2) When specifically asked when he made this call, Mr. Reinsch stated that it was the week the money appeared in his account, but did not remember the exact date. (Reinsch testimony) Mr. Reinsch stated that the IWD representative told him not to worry about it, that it was a computer glitch. (Reinsch testimony; Exhibit 4, B2)

According to Michelle Saddoris, the funds from the unemployment claim for the week ending March 1, 2014, would have been deposited into Daniel Reinsch's account on March 7, 2014. (Saddoris testimony) According to Michelle Saddoris, the funds from the week ending March 8, 2014, the week of the computer glitch, would have been deposited into Daniel Reinsch's account on March 18, 2014. (Saddoris testimony) Therefore, weighing all the evidence, I find that Mr. Reinsch would have called IWD to report the extra funds during the week of March 10-14 or March 17-21. He did not remember the date he called IWD or the person he spoke to at IWD. The IWD records regarding Daniel Reinsch's claim data change log do not include any record of a call in March 2014. (Exhibit B3; Saddoris testimony) According to Ms. Saddoris, his call would or should have been noted in this log. (Saddoris testimony)

On November 7, 2014, IWD issued a preliminary audit notice to Daniel Reinsch, informing him that he may have received benefits to which he "was not entitled due to unreported or incorrectly reported gross earnings from employment." (Exhibit A3) This notice included the time period from 01/04/14 to 03/08/14. (Exhibit A3) This notice included the potential overpayment amount of \$439.00. (Exhibit A3) This notice included a deadline of November 21, 2014, to respond concerning this potential overpayment. (Exhibit A3)

On November 21, 2014, Daniel Reinsch corresponded with Michelle Saddoris via email. (Exhibits A4; Saddoris testimony; Reinsch testimony) In this email message, he stated that he stopped reporting for unemployment when he began working for Prairie Meadows. He described the conversation with an IWD representative after the funds appeared in his account. (Exhibit A4) He offered to pay back the funds at that time. The IWD representative told him about the computer glitch. (Exhibit A4)

On November 21, 2014, Michelle Saddoris replied to Mr. Reinsch's email message, confirming the computer error for the week ending March 8, 2014. She clarified that the overpayment claimed was for the week ending March 1, 2014. (Exhibit A4; Saddoris testimony) Ms. Saddoris gave Mr. Reinsch additional time, until December 1, 2014, to submit additional evidence relating to the overpayment claim. (Exhibit A4) He did not submit any additional evidence by that date. (Saddoris testimony; Exhibit A3)

On December 16, 2014, IWD issued a Notice of Decision, assessing an overpayment in the amount of \$439.00, because Daniel Reinsch failed to report wages he earned from Prairie Meadows Racetrack & Casino for the week ending March 1, 2014. (Exhibit 4) This notice of decision imposed a 15% administrative penalty due to misrepresentation. (Exhibit 4; Saddoris testimony) The appeal deadline for this decision was 12/26/14.

(Exhibit 4) Daniel Reinsch submitted a timely appeal, postmarked December 21, 2014. (Exhibits 4, 5)

During his hearing testimony, Daniel Reinsch adamantly denied any misrepresentation. He stated that he called IWD soon after he noticed the extra funds in his account. He offered to repay the money at that time. He agreed that he was overpaid unemployment insurance benefits after he started working at Prairie Meadows. Mr. Reinsch did not specifically dispute the amount of the overpayment owed. He objected to the several month delay in IWD's assessment and collection of the overpayment. He objected to the 15% administrative penalty. (Reinsch testimony)

Michelle Saddoris cited the statutory authority for the 15% administrative penalty due to misrepresentation. (Exhibit C1) Mr. Reinsch consistently claimed that he did not file for unemployment benefits after he began working for Prairie Meadows. He consistently claimed that he contacted IWD soon after the extra funds appeared in his account and offered to repay that amount at that time. Mr. Reinsch consistently denied any misrepresentation or false statements. (Reinsch testimony)

### **REASONING AND CONCLUSIONS OF LAW**

#### **Overpayment claim - Misrepresentation**

When IWD determines an individual who received unemployment benefits was ineligible to receive benefits, IWD must recoup the benefits received, whether or not the individual acted in good faith and was not otherwise at fault.<sup>1</sup>

IWD may, in its discretion, recover the overpayment either by deducting a sum equal to the overpayment from any future benefits payable to the individual, or by collecting a sum equal to the overpayment directly from the individual.<sup>2</sup>

Reinsch agreed that he owed the overpayment. He agreed that he received unemployment insurance benefits to which he was not entitled. As stated above, the overpayment of \$439 must be recouped, whether or not Mr. Reinsch acted in good faith or was not otherwise at fault. The overpayment decision must be affirmed.

In this case, IWD determined the overpayments occurred because of misrepresentation, and assessed a 15% administrative penalty based on that determination.<sup>3</sup> Considering all the undisputed and disputed evidence presented, and weighing the reliability and credibility of the evidence, I conclude that IWD did not meet its burden to show that Daniel Reinsch knowingly made a false statement or misrepresented a material fact. The evidence shows that he attempted to correct the overpayment error soon after it occurred, and then may have received inaccurate or somewhat misleading information from the IWD representative, based on a misunderstanding of which week was at issue. I conclude that Daniel Reinsch did not call IWD until after the second week of his employment with Prairie Meadows, during or after the week of the IWD computer glitch.

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<sup>1</sup> Iowa Code §96.3(7) (2013).

<sup>2</sup> Iowa Code §96.3(7) (2013).

<sup>3</sup> Iowa Code §96.16(4)(a),(b) (2015)

Based on the weight and credibility of all the evidence, IWD's decision imposing a 15% administrative penalty due to misrepresentation is reversed.

**DECISION**

IWD's decision dated December 16, 2014, reference 01, assessing an overpayment in the amount of \$439.00 for one week, is **AFFIRMED**.

IWD's decision to impose a 15% administrative penalty due to misrepresentation is **REVERSED**.

egc