

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

**Appeal Number: 13IWDUI070**  
**OC: 12/23/12**  
**Claimant: Appellant (1)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**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, 4<sup>TH</sup> 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.

**CURTIS JEFFERS**  
**P.O. BOX 531**  
**DUBUQUE, IA 52001**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATIONS AND RECOVERY**  
**JONATHAN LINNENBRINK**  
**902 W. KIMBERLY RD., SUITE 51**  
**DAVENPORT, IA 52806-5783**

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.

JOE WALSH, IWD

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(Administrative Law Judge)

April 18, 2013

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(Decision Dated & Mailed)

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### STATEMENT OF THE CASE

Curtis Jeffers filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 18, 2013 (reference 03). In this decision, the Department imposed an administrative penalty that disqualified Jeffers from receiving unemployment insurance benefits from January 13, 2013 through July 6, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on February 6, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on February 13, 2013. On March 15, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Investigator Jonathan Linnenbrink represented the Department and presented testimony. Appellant Curtis Jeffers appeared and presented testimony.

Exhibits A and B were submitted by the Department and admitted into the record as evidence.

### **ISSUE**

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

### **FINDINGS OF FACT**

Curtis Jeffers filed a claim for unemployment insurance benefits with an effective date of December 23, 2012. At some point after Jeffers filed this claim, the Department determined that Jeffers made false statements regarding his employment and earnings in order to receive unemployment insurance benefits from July 5, 2009 through October 23, 2010. On the basis of this determination, the Department issued a decision on January 18, 2013 imposing an administrative penalty that disqualified Jeffers from receiving benefits from January 13, 2013 through July 6, 2013. (Exh. B1). On January 7, 2013, the Department mailed Jeffers a Notice of Unemployment Insurance Fact-Finding Interview scheduling an interview for January 17, 2013. Jeffers spoke with Department investigator Jonathan Linnenbrink on that date. During that interview, Jeffers disputed the Department's overpayment finding from October, 2011. (Linnenbrink testimony; Exh. B1-B3, B5).

From the week ending July 11, 2009 through the week ending October 23, 2010 – with some breaks, Jeffers made claims for unemployment insurance benefits. During 18 weeks from July through December, 2009, Jeffers reported earning no wages. His employer, Labor World of Iowa, reported that he earned wages ranging from \$29 to \$569 during those weeks. During 16 weeks from March through August, 2010, Jeffers reported earning no wages. His employer reported that he earned wages ranging from \$33 to \$372 during those weeks. During various other weeks during the date range, Jeffers reported earning wages; he typically reported earning fewer wages each week than his employer reported he actually earned. There was one week during the time span where Jeffers actually overreported his wages by \$7. With that one exception, he consistently underreported his wages or did not report wages for the time period from July, 2009 through October, 2010. (Exh. A1, A3-A5).

When the Department initially investigated the potential overpayment of benefits, Jeffers was given an opportunity to respond to investigator Jonathan Linnenbrink by mail or fax regarding the discrepancy in wages reported by his employer. Jeffers failed to respond. On October 20, 2011, the Department issued a decision finding that Jeffers was overpaid in the amount of \$3,293.27 for failing to report or underreporting wages from July 5, 2009 through October 23, 2010. (Exh. A1, A2; Linnenbrink testimony).

When Linnenbrink received notice that Jeffers had filed another claim effective December 23, 2012, he sent Jeffers a Notice of Unemployment Insurance Fact-Finding Interview scheduling an interview for January 17, 2013. Jeffers spoke with Linnenbrink on that date. During that interview, Jeffers disputed the Department's overpayment finding from October, 2011. (Linnenbrink testimony; Exh. B1-B3, B5).

Jeffers appealed the decision imposing the administrative penalty. At hearing, Jeffers testified that he did call in and report wages during weeks that he earned wages. Jeffers testified that he does not believe he received unemployment benefits when he earned wages. (Jeffers testimony).

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

The Department is authorized to impose an administrative penalty when it determines that an individual has, within the thirty-six preceding 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 obtain unemployment benefits to which the individual is not entitled.<sup>1</sup> The imposition of an administrative penalty results in the forfeiting of all unemployment benefits for a period of time to be determined by the Department; the period, however, cannot exceed the remainder of the individual's benefit year.<sup>2</sup>

The Department's investigator considers the facts and nature of the offense in determining the degree and severity of the penalty. The penalty range for falsification is from three weeks through the remainder of the benefit year. The investigator has broad discretion to determine the actual penalty to be imposed within the range.<sup>3</sup>

In this case, there is undisputed evidence that Jeffers failed to report and underreported wages from July, 2009 through October, 2010. I did not find Jeffers' testimony that he reported his wages accurately credible in the face of the overwhelming evidence to the contrary that was presented by the Department. I conclude based on the available evidence that Jeffers did willfully and knowingly falsely represent his earnings with the intent to obtain unemployment insurance benefits to which he was not entitled. The Department's decision to impose an administrative penalty was correct and the length of the administrative penalty imposed in this case does not exceed the time period allowed in the Department's regulations.

### **DECISION**

Iowa Workforce Development's decision dated January 18, 2013, reference 03, is AFFIRMED. The Department correctly imposed the administrative penalty. The Department shall take any action necessary to implement this decision.

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<sup>1</sup> Iowa Code § 96.5(8) (2013).

<sup>2</sup> *Id.*

<sup>3</sup> 871 Iowa Administrative Code (IAC) 25.9(2).