

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KENNETH E KAY
Claimant

APPEAL NO. 22A-UI-10069-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/21/21
Claimant: Appellant (4)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On April 20, 2022, the claimant Kenneth E. Kay appealed the April 13, 2022, (reference 02) decision that concluded the claimant was overpaid regular unemployment insurance benefits in the amount of \$7,888.00 for the sixteen-week period ending October 8, 2021. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Wednesday, June 8, 2022. Appeal numbers 22A-UI-10068-LJ-T and 22A-UI-10069-LJ-T were heard together and created one record. The claimant, Kenneth E. Kay, participated. The employer, Avery Technical Resources, Inc., did not appear for the hearing and did not participate. Claimant's Exhibit A was received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid regular unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On April 13, 2022, Iowa Workforce Development (IWD) issued a decision (reference 01) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been modified in favor of the claimant. See 22A-UI-10068-LJ-T. Claimant has been found unable to work only for the one-week period between June 20, 2021 and June 26, 2021. Claimant filed for and has received regular unemployment insurance benefits in the gross amount of \$493.00 for one-week period ending June 26, 2021.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for one-week period ending June 26, 2021.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

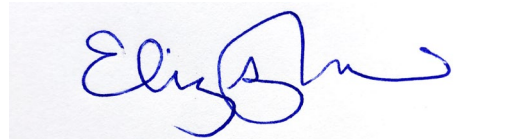
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant has been overpaid regular unemployment insurance benefits in the amount of \$493.00, the amount he was paid for the one-week period ending June 26, 2021. That amount must be repaid to the agency.

DECISION:

The April 13, 2022 (reference 01) decision is modified in favor of the claimant. Claimant has been overpaid regular unemployment insurance benefits in the amount of \$493.00, and those benefits must be repaid to the agency.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 9, 2022
Decision Dated and Mailed

lj/lj