

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCOTT T TUCKER
Claimant

APPEAL 24A-UI-00039-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/02/22
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On December 29, 2023, claimant Scott T. Tucker filed an appeal from the December 20, 2023 (reference 09) unemployment insurance decision that found claimant was overpaid \$551.00 for the week ending June 24, 2023. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on January 5, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 10:00 a.m. on Friday, January 19, 2024. Appeal numbers 24A-UI-00033-LJ-T, 24A-UI-00034-LJ-T, 24A-UI-00035-LJ-T, 24A-UI-00036-LJ-T, 24A-UI-00037-LJ-T, 24A-UI-00038-LJ-T, and 24A-UI-00039-LJ-T were heard together and created one record. Claimant Scott T. Tucker participated. No exhibits were admitted into the hearing record. The administrative law judge took official notice of the administrative record, including claimant's unemployment insurance claim records and the decisions IWD sent to claimant.

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

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

Claimant opened his claim for benefits with an effective date of October 2, 2022. Based on his base period wages, IWD calculated claimant's weekly benefit amount at \$551.00. He filed one weekly claim in October 2022; he filed a second weekly claim for benefits in December 2022; and then he began regularly filing for benefits in May 2022. Claimant filed weekly continued claims for benefits for the weeks ending May 20; June 10; June 17; and June 24, 2023. IWD's mainframe screen that records each weekly claim indicates claimant logged and certified zero weekly continued claims for each of those weeks.

Claimant received a full \$551.00 benefit payment for the week ending June 10, 2023.
Claimant received a full \$551.00 benefit payment for the week ending June 17, 2023.
Claimant received a full \$551.00 benefit payment for the week ending June 24, 2023.

On October 31, 2023, IWD issued claimant the reference 06 decision finding he was denied benefits for the week ending June 24, 2023, due to failure to log and certify four reemployment activities that week. That decision has been affirmed on appeal. See 24A-UI-00036-LJ-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant has been overpaid benefits.

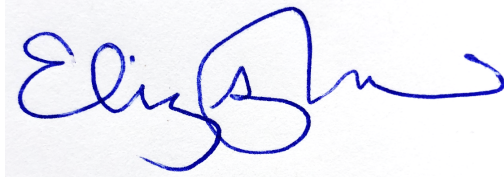
Iowa Code § 96.3(7) provides, in pertinent part:

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.

Claimant failed to timely appeal the underlying decision. As a result, claimant has been found ineligible for benefits for the week in question. Therefore, claimant has received benefits to which he is not entitled. Those benefits must be repaid to IWD. I find claimant has been overpaid regular unemployment insurance benefits in the amount of \$551.00.

DECISION:

The December 20, 2023 (reference 09) unemployment insurance decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$551.00. That amount must be repaid to IWD.



Elizabeth A. Johnson
Administrative Law Judge

January 23m 2024
Decision Dated and Mailed

lj/rvs

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.