

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARRYL K EGGERS

Claimant

APPEAL 22A-UI-07734-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DARLING INGREDIENTS INC

Employer

OC: 07/14/19

Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
Iowa Code § 96.1A(37) - Total, Partial and Temporary Unemployment
Iowa Code § 96.5(5) - Payment - Other Compensation

STATEMENT OF THE CASE:

Darryl Eggers, claimant/appellant, appealed the March 15, 2022, (reference 02) unemployment insurance decision finding claimant was overpaid unemployment insurance benefits in the amount of \$481.00 for a one-week period between 07/14/2019 through 07/20/2019, due to failing to report wages earned with Sonac USA, LLC a subsidiary of Darling Ingredients, Inc., employer/respondent. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for May 9, 2022. Claimant personally participated. Employer did not participate. Judicial notice was taken of the administrative record, including the fact finding documents (wage reports).

ISSUES:

Is the claimant overpaid benefits which must be repaid?
Was the claimant totally, partially, or temporarily unemployed?
Did the claimant correctly report wages earned?
Is the claimant eligible for benefits based upon wages earned?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

Claimant filed a claim for unemployment insurance benefits with an effective date of 07/14/2019 due to his discharge from work in July 2019. Claimant received \$481.00 in unemployment insurance benefits for the one-week period between 07/14/2019 through 07/20/2019. Claimant reported \$0.00 wages for that week.

Fact finding documents are a part of the record. The department requested a wage record and the employer reported that claimant's last date worked was July 15, 2019, and for the week of July 14-20, 2019, claimant was paid for 32 hours of work in the amount of \$1,653.85, and for vacation in the amount of \$413.47 for a total payment of \$2,067.30. Claimant agrees he was paid that amount in that timeframe, but argues that it was earned the week prior, as payment is

received one week later than earned. The payment from employer was received during the one-week period between 07/14-20/2019.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant failed to report wages. It is found that claimant failed to report wages in the amount of \$2,067.30 for the week in question.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Here, claimant received payment of wages, including vacation pay for a total amount of \$2,067.30 the week of July 14 - 20, 2019. Claimant did not report this payment.

The next issue in this case is whether the claimant is totally, partially, or temporarily unemployed. It is found that he was not unemployed for the week in question.

Iowa Code section 96.1A(37) provides:

“Total and partial unemployment”.

a. An individual shall be deemed “totally unemployed” in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed “partially unemployed” in any week in which either of the following apply:

(1) While employed at the individual’s then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual’s weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual’s regular job, earns at odd jobs less than the individual’s weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed “temporarily unemployed” if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual’s regular job or trade in which the individual worked full-time and will again work full-time, if the individual’s employment, although temporarily suspended, has not been terminated

Claimant received \$2,067.30 the week of July 14 - 20, 2019. Therefore, for the week of July 14 - 20, 2019, since he received wages, he is not totally unemployed. The amount of \$2,067.30 exceeds claimant’s weekly benefit amount of \$481, plus \$15 (\$496) and therefore, claimant is not partially unemployed for the week in question. Since claimant advised he was discharged from work, he is not temporarily unemployed for the week in question.

The last issues are whether claimant was eligible for benefits/overpaid benefits which are to be repaid. Claimant was not eligible for benefits for the week in question and therefore overpaid \$418 in benefits that are to be repaid.

Employer reports that claimant performed work during the week in question, received payment for wages and vacation during the week in question. This payment exceeds his weekly benefit amount plus fifteen dollars. As such, he was not eligible for benefits for the week in question, July 14 - 20, 2019.

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.

Since claimant was not eligible for benefits for the one-week period between July 14 - 20, 2019 and he was paid \$481.00 in benefits for that benefit week, claimant was overpaid unemployment insurance benefits in the amount of \$481.00 and repayment is required.

DECISION:

The March 15, 2022, (reference 02) unemployment insurance decision is **AFFIRMED**. Claimant failed to correctly report wages and was overpaid benefits in the amount of \$481.00 for the one-week period between July 14-20, 2019 that shall be repaid.



Darrin T. Hamilton
Administrative Law Judge

May 31, 2022
Decision Dated and Mailed

dh/scn