

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**VERNE F BRACKETT
104 N IOWA ST
PLEASANTVILLE IA 50225 7716**

**MCANINCH CORP
DAVE STITZ
STE 350
100 E GRAND AVE
DES MOINES IA 50309 1800**

**VERNE BRACKETT
105 W 8TH AVE
INDIANOLA IA 50125**

APPEAL 22A-UI-05895-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.

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 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. It is important that you file your 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.

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VERNE F BRACKETT
Claimant

MCANINCH CORP
Employer

APPEAL 22A-UI-05895-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/12/21
Claimant: Appellant (1)**

Iowa Code § 96.3-7 - Recovery of Overpayment of Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated February 24, 2022, (reference 01) that concluded the claimant was overpaid \$21.00 in unemployment insurance benefits due to a failure to report wages earned from McAninch Corp. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 18, 2022, and was consolidated with the hearing for appeal 22A-UI-05906-S2-T. Claimant Verne F. Brackett participated personally. Employer McAninch Corp. Participated through witness Ronda Wheeler. The administrative law judge took official notice of the administrative record.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works full-time as a truck driver for employer McAninch Corp. He filed a claim for unemployment insurance benefits with an effective date of December 12, 2021, due to a temporary layoff. Claimant's weekly benefit amount is \$423.00. Claimant filed for and received a total of \$423.00 in regular unemployment insurance benefits for the week ending February 19, 2022. For the week ending February 19, 2022, claimant mistakenly reported earning no wages. Claimant earned \$126.75 for attending a five-hour safety meeting that week. Claimant was entitled to \$402.00 in benefits for the week ending February 19, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant was overpaid unemployment insurance benefits.

Iowa Code § 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.

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.

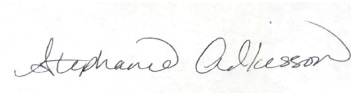
b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include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

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when an individual has received no wages and performed no services during any given week. *Id.* An individual who is totally unemployed has been permanently separated from an employer, whereas an individual who is temporarily unemployed has not been permanently separated from employment. To be partially unemployed, an individual must be working less than their regular full-time work week and earn less than their weekly benefit amount plus fifteen dollars. *Id.*

Here, claimant worked less than his full-time work week but failed to report his wages earned. During the week ending February 19, 2022, claimant underreported his wages, and as a result, he was overpaid benefits. Due to failing to correctly report his wages, claimant was overpaid \$21.00 in unemployment insurance benefits and those benefits must be repaid.

DECISION:

The decision of the representative dated February 24, 2022, (reference 01) is affirmed. The claimant did not correctly report his wages. He was overpaid regular state unemployment insurance benefits in the amount of \$21.00 to which he was not entitled, and those benefits must be recovered in accordance with the law.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

April 21, 2022
Decision Dated and Mailed

sa/kmj