

IOWA DEPARTMENT OF INSPECTIONS & APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 08-IWDUI-120
OC: 03/02/08
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 written Notice of Appeal, directly to the **Employment Appeal Board, 4th 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.

DONNA E. SHANNON
208 S. 28TH STREET
COUNCIL BLUFFS, IA 51501-3565

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

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.

DAN ANDERSON, IWD

(Administrative Law Judge)

October 22, 2008

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE

Claimant Donna Shannon filed an appeal from an Iowa Workforce Development decision dated September 2, 2008, reference 03, which held that she had been overpaid unemployment benefits in the amount of \$206.00, because she incorrectly reported wages earned with Omega Foods, Inc. during the period from July 6, 2008 through July 19, 2008

A hearing was scheduled by way of telephone conference call on October 10, 2008.

Ms. Shannon appeared and participated in the hearing. John Doidge, an investigator with Iowa Workforce Development, appeared and participated on behalf of the department. Mr. Doidge submitted Exhibits A and B which were admitted into the record.

FINDINGS OF FACT

Donna Shannon filed a claim for unemployment benefits with an effective date of March 2, 2008. She requested and received unemployment benefits during the July 2008.

The department audited the Ms. Shannon's unemployment claim and Omega Foods, Inc. reported to the department gross earnings paid to Ms. Shannon during the period from the week ending July 5, 2008 to the week ending July 19, 2008. The department compared the employers' wage reports against Ms. Shannon's claims for the same weeks.

Omega Foods reported that Ms. Shannon earned \$34.00 for the week ending July 5, 2008; \$143.00 for the week ending July 12, 2008; and, \$131.00 for the week ending July 19, 2008. During that same period Ms. Shannon reported no wages for the week ending July 5th and \$15.00 for both of the weeks ending July 12th and 19th.

Based on the wages she reported, Ms. Shannon received unemployment insurance benefits in the amount of \$139.00 each of the weeks in question. However, based on the wages reported by Omega Foods, Inc., Ms. Shannon was only entitled to \$139.00 in benefits for the week ending July 5, 2008; \$30.00 in benefits for the week ending July 12, 2008; and, \$42.00 for the week ending July 19, 2008. This amounts to an overpayment of benefits in the total amount of \$206.00 for the two weeks ending July 12, 2008 and July 19, 2008. A representative's decision was issued to Ms. Shannon on September 2, 2008, informing her of the overpayment.

Ms. Shannon appealed from the representative's decision. On her appeal form, Ms. Shannon stated she had never called in the sum of \$15.00 per week as her wages; she had called in \$87.00. However, at hearing, Ms. Shannon testified that she did report \$15.00 in wages. Further Ms. Shannon testified that the wage information supplied by Omega Foods, Inc. was accurate.

CONCLUSIONS OF LAW

The issue is whether Donna Shannon has been overpaid benefits in the amount of \$206.00.

Iowa law provides that the division of job service may, in its discretion, recover any overpayment of benefits regardless of whether the recipient acted in good faith. Recovery may be made by either having a sum equal to the overpayment deducted from future benefits or by having the recipient pay the amount of the overpayment to the division.¹

¹ Iowa Code section 96.3(7).

The uncontested evidence clearly demonstrates Ms. Shannon was overpaid benefits during the two weeks ending July 12, 2008 and July 19, 2008 in the total amount of \$206.00. At hearing, Ms. Shannon did not dispute the wages she reported or the wages she actually earned. Therefore, the representative's decision must be affirmed.

DECISION

The decision of the representative dated September 2, 2008, reference 03, is AFFIRMED. The claimant has been overpaid benefits in the amount of \$206.00.