

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN E SNITKER
Claimant

BEES BUSY BEE DAYCARE LLC
Employer

APPEAL 22A-UI-06373-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.5(5)-Compensation

STATEMENT OF THE CASE:

On March 14, 2022, the claimant/appellant filed an appeal from the March 4, 2022, (reference 02) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$199.00 as a result of a disqualification decision. The parties were properly notified of the hearing. A telephone hearing was held on April 20, 2022. The hearing was held together with appeal 22A-UI-06376-CS-T and combined into one record. The claimant participated. The employer participated through co-owner, Belinda Ramriez. Co-owner Earl Ramriez was present but was not called to testify. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit D-1 was admitted into the record.

ISSUES:

Is claimant totally, partially or temporarily unemployed?

Did the claimant correctly report wages earned?

Was the claimant was overpaid benefits?

FINDINGS OF FACT:

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

Claimant filed an initial claim for unemployment insurance benefits effective March 15, 2020. Claimant's weekly benefit amount was \$199.00. Claimant worked approximately 37 hours a week. Claimant earned \$10.50 an hour.

On March 18, 2020, the employer closed its business due to the Governor's COVID proclamation. The employer resumed business on May 4, 2020. Claimant returned to work May 4, 2020, and work 23 hours and 2 minutes for the week ending May 9, 2020.

On claimant's weekly filings she reported \$0.00 wages earned for the week ending May 9, 2020. Claimant mistakenly thought she was supposed to report her wages one week after she worked. Claimant does not dispute that she worked 23 hours and 2 minutes and earned \$241.50 for the week ending May 9, 2020. Claimant received \$199.00 in state unemployment benefits for the week ending May 9, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code § 96.19(38) 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 section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.3.(7) states:

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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

In this case the claimant was not partially unemployed for the week ending May 9, 2020. In order to be partially unemployed the claimant must work less than her regular full-time week AND earn less than the individual's weekly benefit amount plus \$15.00. Claimant worked less than her normal 37 hours, however, claimant earned \$241.50 for the hours she worked. This is more than her weekly benefit amount plus \$15.00. As a result claimant has been overpaid one week of state unemployment benefits. Claimant is required to repay \$199.00 in state unemployment benefits.

DECISION:

The March 4, 2022 (reference 02) unemployment insurance decision is AFFIRMED. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$199.00 for the one-week period between May 3, 2020 and May 9, 2020, which must be repaid.



Carly Smith
Administrative Law Judge

April 21, 2022
Decision Dated and Mailed

cs/kmj

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.