

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

ANDREW G ORTALE
Claimant

APPEAL NO. 24A-UI-03030-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 10/29/23
Claimant: Appellant (6)**

Iowa Code Section – 96.3(7) - Overpayment
Iowa Code Section 96.6 Aggrieved Party Requirement
Iowa Administrative Code Rule 87126.8(1) – Dismissal of Appeal, No Aggrieved Party

STATEMENT OF THE CASE:

On March 18, 2024, Andrew Ortale (claimant) filed a timely appeal from the March 8, 2024 (reference 03) decision that held he was overpaid \$896.00 in benefits for two weeks between December 31, 2023 and January 13, 2024, due to an earlier decision that disqualified the claimant for benefits in connection with a discharge from employment with 900 IRL Associates, L.L.C. After due notice to the parties, an appeal hearing was held on April 9, 2024. The claimant participated. IWD did not comply with the hearing notice instructions to call the designated number at the time of the hearing and did not participate. Nor did IWD submit proposed exhibits for the hearing. Exhibit A was received into the hearing record. The administrative law judge took official notice of the following IWD administrative records: DBRO, KFFV, KLOG, the overpayment balance database, the November 21, 2023 (reference 03) disqualification decision, and the administrative law judge decision in Appeal Number 24AUI03029JTT.

After the hearing record closed, but before the administrative law judge entered the present decision, IWD provided an April 9, 2024 (reference 04) decision, which was favorable to the claimant and which the administrative law judge received into evidence. Based on the reference 04 decision, the administrative law judge determined that dismissal of the appeal, rather than a decision on the merits, was appropriate.

ISSUES:

Whether the claimant is aggrieved by the March 8, 2024 (reference 03) overpayment decision in light of the April 9, 2024 (reference 04) decision.
Whether the appeal should be dismissed.

FINDINGS OF FACT:

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

On March 18, 2024, Andrew Ortale (claimant) filed a timely appeal from the March 8, 2024 (reference 03) decision that held he was overpaid \$896.00 in benefits for two weeks between December 31, 2023 and January 13, 2024, due to an earlier decision that disqualified the claimant for benefits in connection with a discharge from employment with 900 IRL Associates, L.L.C.

IWD records reflect that the benefit payment was cancelled and that the claimant did not receive the benefits in question.

On April 9, 2024, IWD mailed a reference 04 overpayment decision that stated IWD had reviewed the earlier overpayment decision and had reduced the overpayment amount to zero. The reference 04 decision modified and effectively reversed in favor of the claimant the earlier overpayment determination.

REASONING AND CONCLUSIONS OF LAW:


The appeal rights and procedures set forth at Iowa Code section 96.6 presuppose and require the existence of an aggrieved party.

Iowa Administrative Code rule 87126.8(1) provides as follows: “An appeal may be dismissed upon the request of a party or in the agency’s discretion when the issue or issues on appeal have been resolved in the appellant’s favor.”

Because the April 9, 2024 (reference 04) decision modified and effectively reversed in favor of the claimant the earlier (reference 03) overpayment decision by reducing the overpayment amount to zero, the claimant is not aggrieved by the reference 03 decision and has received all available remedy. For these reasons, the appeal from the reference 03 decision is dismissed.

DECISION:

Because the April 9, 2024 (reference 04) decision modified and effectively reversed in favor of the claimant the earlier, March 8, 2024 (reference 03) overpayment decision by reducing the overpayment amount to zero, the claimant is not aggrieved by the reference 03 decision. Accordingly, the appeal from the reference 03 decision is DISMISSED. The reference 04 decision that reduced the overpayment amount to zero remains in effect.



James E. Timberland
Administrative Law Judge

April 17, 2024
Decision Dated and Mailed

scn

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:

**Employment Appeal Board
6200 Park Ave 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>.

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:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.