

IOWA DEPARTMENT OF INSPECTIONS & APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 14IWDUI087
OC: 01/05/14
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

RONNIE HAAKMA
164 WEST POST ROAD NW
CEDAR RAPIDS, IA 52405

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
IRMA LEWIS, INVESTIGATOR

TERESA HILLARY, IWD
JONI BENSON, IWD

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.

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 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.

(Administrative Law Judge)

March 31, 2014
(Dated and Mailed)

Iowa Code section 96.5-8 – Administrative Penalty
Iowa Code section 96.4-3 – Ineligibility for Benefits

STATEMENT OF THE CASE

Claimant/Appellant Ronnie Haakma appealed a decision dated February 11, 2014, reference 01, finding he was not eligible to receive unemployment insurance benefits because IWD's records indicated he made false statements concerning his employment and earnings and did so to receive unemployment insurance benefits from February 5, 2012 through August 11, 2012, and imposing an administrative penalty disqualifying

Haakma from receiving benefits from February 2, 2014 through the end of the benefit year on January 3, 2015.

IWD transmitted the file to the Iowa Department of Inspections and Appeals on February 27, 2014. When IWD transmitted the file to the Iowa Department of Inspections and Appeals IWD mailed a copy of the administrative file to Haakma. Irma Lewis, the representative from IWD submitted additional documents and reported she mailed a copy to Haakma on the transmittal.

On March 31, 2014, a contested case hearing was held before Administrative Law Judge Heather Palmer. Haakma appeared and testified. No one appeared on behalf of IWD. Haakma denied receiving the additional documents from Lewis, but elected to proceed with the hearing. Exhibits 1 through 7 were admitted into the record.

ISSUES

Whether the Department correctly imposed an administrative penalty on the basis of false statements made by the Claimant.

Whether the Department correctly determined the claimant is ineligible to receive unemployment insurance benefits.

FINDINGS OF FACT

Haakma has received unemployment insurance benefits in the past. He admitted that he received an overpayment.

Haakma later applied for unemployment insurance benefits, which generated an inquiry by IWD. Haakma reported he has spoken with Dave Eklund from IWD each week and Eklund has been applying Haakma's current unemployment to his overpayment balance.

Lewis sent Haakma a letter regarding a possible administrative penalty. Her notes indicate she did not receive a response. Lewis did not attend the hearing. No one attended the hearing on behalf of the agency to explain the agency's position in this case.

REASONING AND CONCLUSIONS OF LAW

IWD may impose an administrative penalty if an insured person has, within the preceding 36 calendar months, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact, with the intent to defraud by obtaining benefits the person is not entitled to.¹ The person is disqualified for the week in which IWD makes the determination and forfeits all benefit rights to unemployment insurance benefits for a period of not more than the remaining

¹ Iowa Code § 96.5(8).

benefit period as determined by IWD.² The IWD investigator exercises his or her discretion to determine the degree and severity of the penalty, based on the nature of the offense and facts.³

IWD's rules define intent as "the design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective."⁴ Fraud is defined as "the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself . . . ; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or [IWD], shall not act upon it to their, or its, legal injury."⁵

The governing statute and rules do not define the terms willfully and knowingly.⁶ Therefore, it is necessary to turn to the rules of statutory and regulatory interpretation. The purpose of statutory interpretation is to determine the true intent of the legislature.⁷ When the legislature has not defined the words of a statute, the Iowa Supreme Court looks to prior decisions of the court, similar statutes, dictionary definitions, and common usage.⁸ The rules of statutory interpretation also govern the interpretation of an administrative agency's rules.⁹ The courts construe administrative rules together, using "common sense and sound reason."¹⁰

Black's Law Dictionary defines knowing as "having or showing awareness or understanding" and "deliberate; conscious."¹¹ Willful is defined as "voluntary and intentional, but not necessarily malicious."¹²

Lewis imposed an administrative penalty from February 2, 2014 through the end of the benefit year on January 3, 2015. IWD's rules afford the investigator discretion to determine the degree and severity of the penalty, based on the nature of the offense and facts.¹³ No one appeared from the agency to establish the heightened standard for imposition of an administrative penalty. IWD's decision should be reversed.

² *Id.* § 96.5(8).

³ 871 IAC 25.9(2)c.

⁴ *Id.* 25.1.

⁵ *Id.*

⁶ Iowa Code section 96.16(5)b defines knowingly for purposes of the subsection as "having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the requirement or prohibition involved."

⁷ *Bob Zimmerman Ford, Inc. v. Midwest Automotive I, L.L.C.*, 679 N.W.2d 606, 609 (Iowa 2004).

⁸ *Id.* at 609 (citing *Bernau v. Iowa Dep't of Transp.*, 580 N.W.2d 757, 761 (Iowa 1998)).

⁹ *Messina v. Iowa Dep't of Job Serv.*, 341 N.W.2d 52, 56 (Iowa 1983).

¹⁰ *Id.*

¹¹ *Black's Law Dictionary* (7th Ed. 1999).

¹² *Id.*

¹³ 871 IAC 25.9(2)c.

DECISION

No one appeared on behalf of IWD at the hearing to establish the heightened standard for imposition of an administrative penalty. IWD's decision dated February 11, 2014, reference 01, is REVERSED.

hlp