

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**REBECCA M WILLETT**  
Claimant

**BUNDUTECUSA INC**  
Employer

**APPEAL 22A-UI-09118-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (4)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment

**STATEMENT OF THE CASE:**

On April 11, 2022, claimant Rebecca M. Willett filed an appeal from the April 4, 2022 (reference 01) unemployment insurance decision that found she was overpaid \$1,842.00 in regular unemployment insurance benefits for the ten-week period beginning July 5, 2020 and ending October 3, 2020, due to unreported wages. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Wednesday, May 25, 2022. Appeal numbers 22A-UI-09118-LJ-T, 22A-UI-09120-LJ-T, and 22A-UI-09121-LJ-T were heard together and created one record. The claimant, Rebecca M. Willett, participated. The employer, Bundutecusa, Inc., did not appear for the hearing and did not participate. Department's Exhibit D-1 was marked and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Was the claimant overpaid regular unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Bundutecusa, Inc., in April 2013 or 2014. She remains employed with the employer currently. Throughout her employment, claimant has worked as a full-time office assistant. She also assists on the production line, finishing the campers built by the employer.

At the outset of the COVID-19 pandemic, all of the employer's suppliers had shut down, so the employer was forced to shut down its production line. As a result of this shut-down, claimant's hours dropped to zero for a period of time. Gradually, her hours picked back up as suppliers returned to operation.

Claimant denies working any hours the week of July 5 through July 11, 2020. At one point in July, she drove somewhere to pick up camper doors, but she was not "on the clock" for that. Claimant explained that her father is the employer's CEO, and she was simply assisting with a task that needed to be done for the overall operation of the company.

Claimant currently earns \$16.50 per hour. This has been her hourly rate for years; she has not received either a raise or a pay decrease since March 2020. Claimant believes she went back to work the last week of July 2020 (the week ending August 1, 2020) and worked fifteen hours that week. Claimant earned gross wages of \$247.50 that week.

During the week of August 2 through August 8, claimant worked twelve hours. Claimant earned gross wages of \$198.00 that week.

During the week of August 9 through August 15, claimant worked 22.25 hours. Claimant earned gross wages of \$367.13 that week.

During the week of August 16 through August 22, claimant worked 33.75 hours. Claimant earned gross wages of \$556.88 that week.

During the week of August 23 through August 29, claimant worked 22.25 hours. Claimant earned gross wages of \$367.13 that week.

During the week of August 30 through September 5, claimant worked 22.5 hours. Claimant earned gross wages of \$371.25 that week.

During the week of September 6 through September 12, claimant worked 21 hours. Claimant earned gross wages of \$346.50 that week.

During the week of September 13 through September 19, claimant worked 22.25 hours. Claimant earned gross wages of \$367.13 that week. Claimant did not receive holiday pay that week.

During the week of September 20 through September 26, claimant worked 22.25 hours. Claimant earned gross wages of \$367.13 that week.

During the week of September 27 through October 3, claimant worked 26.75 hours. Claimant earned gross wages of \$441.38 that week.

When claimant filed her weekly claims, she did not report her gross wages each week. Instead, claimant reported her estimated net income, based on past deposits into her bank account. She explained that she does not receive pay stubs and therefore does not keep track of her earnings and hours.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the underlying decision is modified in favor of the claimant. Claimant has been overpaid regular unemployment insurance benefits, but her overpayment amount is reduced.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed

partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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.

(Emphasis added.) Here, the underlying decision stated that claimant was overpaid for the week ending July 11, 2020. The administrative law judge finds claimant was totally unemployed that week. The credible information in the record indicates claimant worked no hours and received no benefits. Therefore, claimant falls under the definition of "totally unemployed" and was entitled to her full benefit amount.

The underlying decision also included the week ending August 8, 2020 in claimant's overpayment. The administrative law judge finds claimant was partially unemployed that week and was entitled to a reduced benefit amount. Claimant worked twelve hours that week and earned \$198.00 in gross wages. Based on these wages, claimant was entitled to a weekly benefit amount of \$214.50. Claimant originally received \$212.00 for that one-week period. Therefore, following Iowa Administrative Code rule 871—24.18(96) and rounding down to the nearest whole dollar, claimant is entitled to a credit of \$2.00.

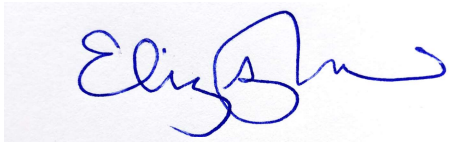
The administrative law judge finds claimant was partially unemployed for the one-week period ending August 1, 2020. Her own testimony established that she worked fifteen hours and earned \$247.50 in gross wages. Therefore, claimant was entitled to partial unemployment benefits of \$165.00 that week. Claimant received \$212.00 in benefits that week. This resulted in claimant receiving an overpayment of \$47.00.

For all other weeks included in her overpayment the eight-week period beginning August 9, 2020 and ending October 3, 2020 – claimant was neither totally nor partially unemployed. Claimant was working and was not totally unemployed. Additionally, although claimant was working less than her regular full-time workweek, she was earning more than her weekly benefit amount of \$330.00 plus fifteen dollars. Therefore, she was not qualified for any benefits during any of these weeks.

Altogether, based on the findings of fact, the administrative law judge concludes claimant has been overpaid a total of \$1,211.00 in regular unemployment insurance benefits. These benefits must be repaid.

**DECISION:**

The April 4, 2022 (reference 01) unemployment insurance decision is modified in favor of the claimant. The claimant has been overpaid regular unemployment insurance benefits in the amount of \$1,211.00 for the nine weeks between July 26, 2020 and October 3, 2020.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

June 3, 2022  
Decision Dated and Mailed

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