

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

Appeal Number: 08-IWDUI-051
OC: 04/08/07
Claimant: Appellant (6)

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 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.

TIMOTHY B RALEIGH
1102 EVAN STREET
DES MOINES IA 50315-3819

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)

April 25, 2008

(Decision Dated & Mailed)

871IAC26.11 – Motion to Dismiss Appeal

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated March 28, 2008, reference 02 that he was overpaid benefits \$214 for the week ending January 26, 2008, because he failed to report wages earned with Michal Hammer Electrical.

A telephone hearing was scheduled for April 29, 2008, pursuant to due notice. Prior to the hearing being held, Investigator Lewis requested this appeal to be dismissed, as the department had issued a decision that eliminated the overpayment.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant appealed a department decision that held he was overpaid benefits \$214, and a telephone hearing was scheduled for April 29, 2008. After Investigator Lewis reviewed the claimant's appeal information, and re-checked the audit information with the employer, the department issued a new decision dated April 9, 2008, reference 03 that eliminated the overpayment.

The department is requesting a dismissal of the appeal, because the overpayment has been removed, and there is no further issue to adjudicate in this matter.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the department's motion to dismiss this appeal.

871 IAC 26.11 provides:

(1) No technical form for motions is required. Nevertheless, pre-hearing motions must be in writing, state the grounds for relief and state the relief sought.

The administrative law judge has reviewed the records and files herein and concludes that the motion to dismiss this appeal should be approved, as the overpayment has been removed by a subsequent department decision, and there remains no further issue to adjudicate in this matter.

DECISION:

The decision of Iowa Workforce Development dated March 28, 2008, reference 02, is SET ASIDE, and the department decision dated April 9, 2008, reference 03 that removes the overpayment is controlling in this matter. This appeal is DISMISSED, as there is no further matter to decide.

rls