

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MARIAN J MORRISON**  
Claimant

**B&D TRANSPORT INC**  
Employer

**APPEAL 18A-UI-11154-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/05/18**  
**Claimant: Appellant (2)**

871 IAC 24.19(3) – Determination and Review of Benefit Rights  
Iowa Code § 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 5, 2018, (reference 05) unemployment insurance decision that found claimant overpaid unemployment insurance benefits in the amount of \$1,887.00 for the eleven weeks ending October 27, 2018. The parties were properly notified about the hearing. A telephone hearing was held on December 5, 2018. Claimant participated. Employer did not register for the hearing and did not participate.

**ISSUE:**

Does the agency have the legal authority to nullify a decision it issued?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of August 5, 2018. On August 15, 2018, a workforce representative issued a reference 01 decision finding claimant was disqualified from receiving benefits because she has not earned eight times her weekly benefit amount, making her ineligible for benefits in a second benefit year. Claimant appealed the decision and it was affirmed by an administrative law judge on September 19, 2018. Claimant did not appeal the administrative law judge's decision.

On October 23, 2018, a workforce representative issued a reference 03 decision allowing benefits based on a finding claimant had earned eight times her weekly benefit amount, making her eligible for benefits in a second benefit year. The same day, Iowa Workforce Development released payment for the eleven weeks claimant had filed weekly continued claims so far during the benefit year. Claimant received unemployment insurance benefit payments in the gross amount of \$1,887.00.

On November 2, 2018, a workforce representative issued a reference 04 decision voiding the reference 03 decision as it had been entered in error.

On November 5, 2018, a workforce representative issued a reference 05 decision finding claimant overpaid benefits in the amount of \$1,887.00 for the eleven weeks ending October 27, 2018.

The next day, on November 6, 2018, the workforce representative issued a reference 06 decision amending the reference 05 decision and also finding claimant overpaid unemployment insurance benefits in the amount of \$1,887.00 for the eleven weeks ending October 27, 2018.

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

For the reasons that follow, the administrative law judge concludes the agency did have the authority to nullify a decision.

Iowa Admin. Code r. 871-24.19(3) states:

Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the benefits bureau may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. The claimant or any other party filing the request for review shall be promptly notified of the decision or referral. Unless the claimant or any other party files an appeal within ten days after the date of mailing, the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

The rules does not require the agency establish any good cause reason for issuing a new decision nor does it limit the amount of time in which the agency has to issue the new decision. The rule set out above indicates that the agency does have authority on their own initiative to nullify and void their prior decision. Thus, the agency was allowed to issue the decision of November 6, 2018, that in essence voided or nullified the decision they had previously issued on November 5, 2018.

#### **DECISION:**

The November 5, 2018, (reference 05) decision is reversed as null and void as the agency did have the authority to nullify the decision when it issued the reference 06 decision.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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Decision Dated and Mailed

cal/scn