

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

JULIE M VOSS

Claimant

HEARING NUMBER: 17BUI-08123

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

A representative issued a decision dated August 4, 2017 that concluded the Claimant was denied benefits after a separation from employment from Marriott Hotel Services (Employer). The Claimant timely appealed that decision and in appeal 17A-UI-08122 the Administrative Law Judge affirmed. The Administrative Law Judge issued a separate decision in case 17A-UI-08133 finding an overpayment of \$1,048.00. The Claimant timely appealed the Administrative Law Judge's denial of benefits and in a concurrently issued decision in case 17A-UI-08122 the Board today reverses the Administrative Law Judge's denial of benefits. The Board now in this decision reverses the overpayment decision **at this time**.

Since the matter has been remanded to the Benefits Bureau on the issues of availability and seeking work the overpayment may be reinstated as a result of the outcome of that remand.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The Board concludes that the Claimant has not been overpaid unemployment insurance benefits in the amount of \$1,048.00 pursuant to Iowa Code section 96.3-7 as the decision denying benefits that created the overpayment decision has now been reversed.

DECISION:

The administrative law judge's decision dated August 30, 2017 is **REVERSED**. The Employment Appeal Board concludes that the Claimant was not overpaid benefits **at this time**.

Since the matter has been remanded to the Benefits Bureau on the issues of availability and seeking work **the overpayment may be reinstated as a result of the outcome of that remand**.

Kim D. Schmett

Ashley R. Koopmans

RRA/fnv

James M. Strohmman