

IOWA DEPARTMENT OF INSPECTIONS & APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 11-IWDUI-098-099
OC: 1/9/11
Claimant: Appellant (1)

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 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.

AUDRA E. CONRAD
248 - 52nd STREET APT 80
WEST DES MOINES, IA 50265-2869

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
150 DES MOINES STREET
DES MOINES IA 50309

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)

June 24, 2011

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE

Claimant Audra Conrad filed an appeal from an Iowa Workforce Development decision dated February 23, 2011, reference 04, which held that she had been overpaid unemployment insurance benefits for a seventeen week period from July 4, 2010, to October 30, 2010, because she failed to accurately report wages earned with Aureas Group.

This case proceeded to a hearing at the Wallace State Office Building, Des Moines, Iowa, on June 23, 2011. Appellant/Claimant Audra Conrad appeared pro se and testified. Investigator

Matthew Mardesen appeared and testified for Iowa Workforce Development (IWD), Investigation and Recovery. Exhibits 1 through 17 entered the record without objection.

FINDINGS OF FACT

This appeal resulted from an audit. (Exhibit 5). This audit revealed that Audra Conrad filed claims for unemployment benefits and reported income for periods in which her employer, Aureas Group reported different income for her. The discrepancy resulted in an overpayment of benefits for the seventeen week period from July 4, 2010, to October 30, 2010, totaling \$6,248. (Exhibit 17; Mardesen testimony)

IWD Investigator Irma Lewis mailed a notice to Ms. Conrad on February 9, 2011 notifying her of the audit and the potential overpayment of \$6,248 and asking her to report to explain the discrepancy and discuss whether the overpayment resulted from misrepresentation. Ms. Conrad initially failed to respond because she was out of town and did not receive the notice. A decision issued on February 22, 2011, finding Ms. Conrad ineligible to receive any unemployment insurance benefits until she reported to a local IWD office. All parties agreed that Ms. Conrad did so report when she returned and removed this disqualification, rendering this decision moot as of the time of this hearing. (Exhibit 12; Mardesen testimony).

No allegation of misrepresentation appears in the February 23, 2011, decision still at issue, and no evidence of misrepresentation entered the record at the hearing.

IWD has regularly withheld benefits to offset against the overpayment of \$6,248. Since February 21, 2011, a total of \$2,632 has been withheld from benefits, which leaves a balance of \$3,616 still owed on the overpayment. (Exhibit 17; Mardesen testimony).

The claimant testified that she has no dispute with the calculations of IWD regarding the amount of the overpayment. In fact, her own calculations resulted in a higher balance owed. (Exhibit 15). Ms. Conrad agreed that she initially owed \$6,248, and still owes \$3,616, as evidenced by Exhibit 17. (Conrad testimony).

CONCLUSIONS OF LAW

Iowa law provides that the division of job service must recover any overpayment of benefits regardless of whether the recipient acted in good faith. Recovery may be made by either having a sum equal to the overpayment deducted from future benefits or by having the recipient pay the amount of the overpayment to the division.¹ If any benefits were received due to misrepresentation, the department is entitled to file a lien in the amount of the overpayment in favor of the state against any property owned by the benefits recipient.²

The uncontested evidence in this case demonstrates Audra Conrad did receive overpayment of unemployment benefits. All parties support IWD's determination that she received overpaid benefits in the amount of \$6,248, and after withholding of benefits, still owes \$3,616.

¹ Iowa Code section 96.3(7).

² Iowa Code section 96.16(4).

DECISION

The decision dated February 23, 2011, reference 04, is AFFIRMED. The claimant has been overpaid benefits in the amount of \$6,248 and still owes a balance of \$3,616.

rhw