

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUSANA G RIDER
Claimant

APPEAL 22A-UI-08925-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

ROSE INTERNATIONAL INC
Employer

OC: 04/05/20
Claimant: Appellant (3)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.1A(37) – Definitions – Total, partial unemployment
Iowa Code § 96.5(5) – Payment – Severance pay, disability, pension

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 7, 2022 (reference 04) unemployment insurance decision that found claimant was overpaid unemployment insurance (UI) benefits in the gross amount of \$1,873.00 for the four-week period between April 5, 2020 and May 2, 2020. The parties were properly notified of the hearing. A telephone hearing was held on May 23, 2022. Claimant participated. Employer did not participate. The record remained open until May 27, 2022 for claimant to submit additional evidence. No evidence was submitted; no exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is totally, partially or temporarily unemployed.
Whether claimant correctly reported wages earned.
Whether claimant is eligible for benefits based on wages earned.
Whether claimant is overpaid UI benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for benefits effective April 5, 2020. Claimant's weekly benefit amount was \$500.00.

Claimant filed a weekly claims for the four benefit weeks between April 5, 2020 and May 2, 2020 and reported zero wages earned. Claimant received a benefits in the gross amount of \$2,000.00 for the four-week period between April 5, 2020 and May 2, 2020.

During the benefit week ending April 11, 2020, claimant worked 13.5 hours at a rate of \$55.44 per hour. Claimant's gross earnings the week ending April 11, 2020 were \$748.44.

During the benefit week ending April 18, 2020, claimant worked nine hours at a rate of \$55.44 per hour. Claimant's gross earnings the week ending April 18, 2020 were \$498.96.

During the benefit week ending April 25, 2020, claimant worked 17.5 hours at a rate of \$55.44 per hour. Claimant's gross earnings the week ending April 25, 2020 were \$970.20.

During the benefit week ending May 2, 2020, claimant worked 12.5 hours at a rate of \$55.44 per hour. Claimant's gross earnings the week ending May 2, 2020 were \$693.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:
Iowa Code section 96.3(7) states:

7. Recovery of overpayment of benefits.

a. 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.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall

recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

For the benefit weeks ending April 11, 2020, April 25, 2020 and May 2, 2020, claimant earned more than her weekly benefit amount plus \$15.00 and, thus, was not entitled to benefits due to excessive wages. Claimant was overpaid UI benefits in the gross amount of \$1,500.00.

For the benefit week ending April 18, 2020, claimant worked less than her regular hours and earned less than her weekly benefit amount plus \$15.00. Therefore, claimant was partially unemployed and was eligible for partial benefits in the amount of \$126.00, according to the following calculation:

$\$498.96$ (wages) - $\$125.00$ (25% of WBA) = $\$373.96$ (wage deduction)
 $\$500.00$ (WBA) - $\$374.96$ (wage deduction) = $\$126.04$ (partial weekly benefit amount)

Claimant received benefits in the amount of \$500.00 for the benefit week ending April 18, 2020 but was only entitled to partial benefits in the amount of \$126.00. Therefore, claimant was overpaid UI in the amount of \$374.00 for the week ending April 18, 2020.

Claimant has been overpaid UI benefits in the gross amount of \$1,874.00 for the four-week period between April 5, 2020 and May 2, 2020. Those benefits must be repaid.

DECISION:

The April 7, 2022 (reference 04) unemployment insurance decision is modified in favor of respondent. Claimant was overpaid benefits in the amount of \$1874.00, which must be repaid.



Adrienne C. Williamson
Administrative Law Judge
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June 1, 2022
Decision Dated and Mailed

acw/ACW