

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHRISTOPHER M WYLIE**  
Claimant

**APPEAL 17A-UI-11127-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/28/17  
Claimant: Appellant (3)**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

Christopher M. Wylie (claimant) filed an appeal from the October 25, 2017, reference 08, unemployment insurance decision that found he was overpaid unemployment insurance benefits as he is not able to and available for work effective May 28, 2017. After due notice was issued, a telephone conference hearing was held on December 1, 2017. The claimant participated and was represented by Attorney Alan M. Daut. The Claimant's Exhibits 1 through 5 were received.

**ISSUE:**

Has the claimant been overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant most recently worked full-time as a Housekeeper at the hotel at Prairie Meadows Race Track and Casino (Prairie Meadows). On February 21, 2017, the claimant experienced a non-work related illness. He was short of breath and was diagnosed with a heart issue that impairs his ability to work among other things. The claimant was placed on job protected leave under the Family Medical Leave Act.

The claimant also applied for and received Short-Term Disability (STD) insurance payments in the amount of \$308.00 each week beginning February 28, 2017. The claimant's most recent STD check covers the time period through August 28, 2017. (Exhibits 1 and 2). Prairie Meadows maintains and pays for the STD insurance. The claimant did not pay any part of that employment benefit. The claimant did not report any of his weekly STD payments on his continued weekly claims for unemployment insurance benefits.

On May 30, 2017, the claimant's doctor released him back to work with restrictions including maximum eight hour workdays, occasional vacuuming no greater than a 12 by 12 foot area, no pushing, pulling, or lifting to exceed ten pounds, occasional bending, no climbing, and a break from work every 30 to 60 minutes as needed. (Exhibit 4). Prairie Meadows determined it did

not have a position for him and separated him from his employment. At the same time, the claimant applied for Social Security Disability (SSD) benefits and stated in his application that he was unable to work. (Exhibit 3).

The claimant filed his claim for unemployment insurance benefits effective May 28, 2017. He searched for work each week he filed a continued weekly claim for benefits. The claimant has only applied for janitorial or housekeeping positions as they are the only jobs he is capable of doing due to his education and job experience.

On October 10, 2017, the claimant's doctor wrote a note on his behalf to support his claim for SSD stating that the claimant has been unable to work since February 21, 2017 due to significant heart and lung issues. She goes on to state, "He has worked as a stock person and house keeper but cannot currently work either of those jobs due to continued shortness of breath. It is unclear at this time when or if he will be able to return to that type of work for which he has training and experience." (Exhibit 5). The claimant continues to experience health issues and is unable to walk around a retail store for more than 30 minutes without sitting down and taking a break.

The claimant filed for and received a total of \$6,700.00 in unemployment insurance benefits for the 20 weeks between May 28, 2017 and October 14, 2017. The original overpayment decision found he was overpaid \$3,685.00 for the 11 weeks between July 30, 2017 and October 14, 2017. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits based on the determination he is not able to and available for work effective May 28, 2017 has been affirmed in a decision of the administrative law judge in appeal 17A-UI-11124-SC-T.

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

For the reasons that follow, the administrative law judge concludes the claimant has been overpaid unemployment insurance benefits which must be repaid.

Iowa Code § 96.3(7) provides, in pertinent part:

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.

The disqualifying decision that has been affirmed finds him disqualified effective May 28, 2017. Therefore, the claimant was overpaid \$6,700.00 in unemployment insurance benefits.

**DECISION:**

The unemployment insurance decision dated October 25, 2017, reference 08, is modified in favor of the respondent. The claimant was overpaid \$6,700.00 in unemployment insurance benefits, which must be repaid.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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