

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

DOROTHY M. HALL
Claimant

MARUTI ONE HOSPITALITY LLC.
Employer

APPEAL 22A-UI-18504-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.5(5)-Compensation

STATEMENT OF THE CASE:

On October 31, 2022, the claimant/appellant filed an appeal from the October 21, 2022, (reference 01) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$329.00 between March 29, 2020, through June 27, 2020 as a result of incorrectly reported wages. Claimant was also determined to be underpaid for some of the weeks and claimant's net overpayment amount was determined to be \$293.00. The parties were properly notified of the hearing. A telephone hearing was held on November 22, 2022. The hearing was held together with appeal 22A-UI-18505-CS-T and combined into one record. The claimant participated. The employer did not participate. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit D-1 was admitted into the record.

ISSUES:

- I. Is claimant totally, partially or temporarily unemployed?
- II. Did the claimant correctly report wages earned?
- III. Was the claimant was overpaid benefits?

FINDINGS OF FACT:

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

Claimant worked as the head housekeeping supervisor for the employer. Claimant's hours varied based on the season and customer's using the hotel. Claimant earned \$10.75 per hour. (Exhibit D-1). In the first quarter of 2019 claimant earned \$3,798.00 in wages. (WAGE-A). In the second quarter of 2019 claimant earned \$3,742.00 in wages. (WAGE-A). In the third quarter of 2019 claimant earned \$5,111.00 in wages. (WAGE-A). In the fourth quarter of 2019 claimant earned \$4,116.00 in wages. (WAGE-A). In the first quarter of 2020 claimant earned \$2,880.00 in wages. (WAGE-A).

Claimant began receiving less hours and filed for partial benefits. Claimant filed an initial claim for unemployment insurance benefits effective March 22, 2020. (DBIN-2). Claimant's weekly benefit amount was \$222.00. (DBIN-2). Claimant began receiving benefits the week ending March 28, 2020, through March 20, 2021.

A request of wage record was sent to employer for the period of March 29, 2020, through July 4, 2020. (Exhibit D-1, pg. 1).

For the week ending April 4, 2020, claimant reported \$194.00 in wages. (DBIN-2). Claimant received \$83.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$195.00 in wages. (Exhibit D-1, pg. 1).

For the week ending April 11, 2020, claimant reported \$167.00 in wages. (DBIN-2). Claimant received \$110.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$197.00 in wages. (Exhibit D-1, pg. 1).

For the week ending April 18, 2020, claimant reported \$158.00 in wages. (DBIN-2). Claimant received \$119.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$197.00 in wages. (Exhibit D-1, pg. 1).

For the week ending April 25, 2020, claimant reported \$183.00 in wages. (DBIN-2). Claimant received \$94.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$191.00 in wages. (Exhibit D-1, pg. 1).

For the week ending May 2, 2020, claimant reported \$205.00 in wages. (DBIN-2). Claimant received \$72.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$181.00 in wages. (Exhibit D-1, pg. 1).

For the week ending May 9, 2020, claimant reported \$193.00 in wages. (DBIN-2). Claimant received \$84.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$195.00 in wages. (Exhibit D-1, pg. 1).

For the week ending May 16, 2020, claimant reported \$202.00 in wages. (DBIN-2). Claimant received \$75.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$195.00 in wages. (Exhibit D-1, pg. 1).

For the week ending May 23, 2020, claimant reported \$210.00 in wages. (DBIN-2). Claimant received \$67.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$205.00 in wages. (Exhibit D-1, pg. 1).

For the week ending May 30, 2020, claimant reported \$182.00 in wages. (DBIN-2). Claimant received \$95.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$205.00 in wages. (Exhibit D-1, pg. 1).

For the week ending June 6, 2020, claimant reported \$220.00 in wages. (DBIN-2). Claimant received \$57.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$237.00 in wages. (Exhibit D-1, pg. 1).

For the week ending June 13, 2020, claimant reported \$221.00 in wages. (DBIN-2). Claimant received \$56.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$237.00 in wages. (Exhibit D-1, pg. 1).

For the week ending June 20, 2020, claimant reported \$220.00 in wages. (DBIN-2). Claimant received \$57.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$238.00 in wages. (Exhibit D-1, pg. 1).

For the week ending June 27, 2020, claimant reported \$221.00 in wages. (DBIN-2). Claimant received \$56.00 in state unemployment benefits. (DBIN-2). Employer reported claimant earned \$238.00 in wages. (Exhibit D-1, pg. 1).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 37, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

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 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.

Between March 29, 2020 and April 4, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$83.00. Claimant was entitled to a partial benefit amount of \$82.00 according to the following calculation:

\$195.00 (wages) - \$55.00 (25% of Weekly Benefit Amount (WBA) = \$140.00 (wage deduction)

\$222.00 (WBA) - \$140.00 (wage deduction) = \$82.00 (partial weekly benefit amount)
Claimant was overpaid \$1.00 for the week ending April 4, 2020.

Between April 5, 2020 and April 11, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$110.00. Claimant was entitled to a partial benefit amount of \$ 80.00 according to the following calculation:

$\$197.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$142.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$142.00 \text{ (wage deduction)} = \$80.00 \text{ (partial weekly benefit amount)}$
Claimant was overpaid \$30.00 for the week ending April 11, 2020.

Between April 12, 2020 and April 18, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$119.00. Claimant was entitled to a partial benefit amount of \$ 80.00 according to the following calculation:

$\$197.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$142.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$142.00 \text{ (wage deduction)} = \$80.00 \text{ (partial weekly benefit amount)}$
Claimant was overpaid \$39.00 for the week ending April 18, 2020.

Between April 19, 2020 and April 25, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$94.00. Claimant was entitled to a partial benefit amount of \$ 86.00 according to the following calculation:

$\$191.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$136.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$136.00 \text{ (wage deduction)} = \$86.00 \text{ (partial weekly benefit amount)}$
Claimant was overpaid \$8.00 for the week ending April 25, 2020.

Between April 26, 2020 and May 2, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$72.00. Claimant was entitled to a partial benefit amount of \$ 96.00 according to the following calculation:

$\$181.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$126.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$126.00 \text{ (wage deduction)} = \$96.00 \text{ (partial weekly benefit amount)}$
Claimant was underpaid \$24.00 for the week ending May 2, 2020.

Between May 3, 2020 and May 9, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$84.00. Claimant was entitled to a partial benefit amount of \$ 82.00 according to the following calculation:

$\$195.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$140.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$140.00 \text{ (wage deduction)} = \$82.00 \text{ (partial weekly benefit amount)}$
Claimant was overpaid \$2.00 for the week ending May 9, 2020.

Between May 10, 2020 and May 16, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$75.00. Claimant was entitled to a partial benefit amount of \$ 82.00 according to the following calculation:

$\$195.00 \text{ (wages)} - \$55.00 \text{ (25\% of WBA)} = \$140.00 \text{ (wage deduction)}$
 $\$222.00 \text{ (WBA)} - \$140.00 \text{ (wage deduction)} = \$82.00 \text{ (partial weekly benefit amount)}$
Claimant was underpaid \$7.00 for the week ending May 16, 2020.

Between May 17, 2020 and May 23, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of \$67.00. Claimant was entitled to a partial benefit amount of \$ 72.00 according to the following calculation:

$\$205.00$ (wages) - $\$55.00$ (25% of WBA) = $\$150.00$ (wage deduction)
 $\$222.00$ (WBA) - $\$150.00$ (wage deduction) = $\$72.00$ (partial weekly

Claimant was underpaid $\$5.00$ for the week ending May 23, 2020.

Between May 24, 2020 and May 30, 2020, claimant was partially unemployed and, thus, eligible for partial benefits. Claimant received a partial benefit payment of $\$95.00$. Claimant was entitled to a partial benefit amount of $\$72.00$ according to the following calculation:

$\$205.00$ (wages) - $\$55.00$ (25% of WBA) = $\$150.00$ (wage deduction)
 $\$222.00$ (WBA) - $\$150.00$ (wage deduction) = $\$72.00$ (partial weekly benefit amount)
Claimant was overpaid $\$23.00$ for the week ending May 30, 2020.

Between May 31, 2020 and June 6, 2020, claimant earned $\$237.00$ in gross wages. This amount exceeds claimant's weekly benefit amount plus $\$15.00$. See Iowa Admin. Code r. 871-24.18. As a result, claimant was not partially unemployed and, thus, not eligible for partial benefits. Claimant received $\$57.00$ in state unemployment benefits for the week. Claimant was overpaid $\$57.00$ in state unemployment benefits for the week ending June 6, 2020.

Between June 7, 2020 and June 13, 2020, claimant earned $\$237.00$ in gross wages. This amount exceeds claimant's weekly benefit amount plus $\$15.00$. See Iowa Admin. Code r. 871-24.18. As a result, claimant was not partially unemployed and, thus, not eligible for partial benefits. Claimant received $\$56.00$ in state unemployment benefits for the week. Claimant was overpaid $\$56.00$ in state unemployment benefits for the week ending June 13, 2020.

Between June 14, 2020 and June 20, 2020, claimant earned $\$238.00$ in gross wages. This amount exceeds claimant's weekly benefit amount plus $\$15.00$. See Iowa Admin. Code r. 871-24.18. As a result, claimant was not partially unemployed and, thus, not eligible for partial benefits. Claimant received $\$57.00$ in state unemployment benefits for the week. Claimant was overpaid $\$57.00$ in state unemployment benefits for the week ending June 20, 2020.

Between June 21, 2020 and June 27, 2020, claimant earned $\$238.00$ in gross wages. This amount exceeds claimant's weekly benefit amount plus $\$15.00$. See Iowa Admin. Code r. 871-24.18. As a result, claimant was not partially unemployed and, thus, not eligible for partial benefits. Claimant received $\$56.00$ in state unemployment benefits for the week. Claimant was overpaid $\$56.00$ in state unemployment benefits for the week ending June 27, 2020.

In total claimant was overpaid a gross total of $\$329.00$ in state unemployment benefits. Claimant was also underpaid a gross total of $\$36.00$ in state unemployment benefits. Claimant's net total overpayment amount is $\$293.00$ in state unemployment benefits. Claimant is required to repay these benefits.

DECISION:

The October 21, 2022 (reference 01) unemployment insurance decision is AFFIRMED. Claimant has been overpaid regular unemployment insurance benefits in the net amount of \$293.00 for the period between March 29, 2020 and June 27, 2020, which must be repaid.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style.

Carly Smith
Administrative Law Judge

November 29, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas