

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW D. RATHERT
Claimant

SDH SERVICE WEST LLC
Employer

APPEAL 22A-UI-06239-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (2)

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 March 12, 2022, the claimant/appellant filed an appeal from the March 7, 2022, (reference 02) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$548.00 as a result of a disqualification decision. The parties were properly notified of the hearing. A telephone hearing was held on April 20, 2022. The hearing was held together with appeals 22A-UI-06236-CS-T; 22A-UI-06242-CS-T; and 22A-UI-06245-CS-T, and combined into one record. The claimant participated. The employer did not call in to participate. Administrative notice was taken of the claimant's unemployment insurance benefits records.

ISSUES:

Is claimant totally, partially or temporarily unemployed?

Did the claimant correctly report wages earned?

Was the claimant was overpaid benefits?

FINDINGS OF FACT:

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

Claimant filed an initial claim for unemployment insurance benefits effective March 15, 2020. Claimant's weekly benefit amount was \$326.00. Claimant's last day with the employer was March 16, 2020. Claimant did not return to work for the employer. Claimant did not work from March 16, 2020 until September 6, 2021. Claimant started a new job on September 7, 2021.

For the week ending March 21, 2020, claimant reported \$120.00 in vacation and/or sick time. Claimant did not report any wages for the week. Claimant received \$206.00 in state

unemployment benefits for the week ending March 21, 2020. The Iowa Workforce Development representative found claimant was overpaid \$206.00 for the week ending March 21, 2020.

For the week ending April 11, 2020, claimant reported no wages earned. Claimant received the full weekly benefit amount of \$326.00. The Iowa Workforce Development representative found claimant was overpaid \$16.00 for the week ending April 11, 2020.

For the week ending July 25, 2020, claimant did not report any wages earned. Claimant received the full weekly benefit amount of \$326.00. The Iowa Workforce Development representative found claimant was overpaid \$326.00 for the week ending July 25, 2020.

The employer did not appear at the hearing to present evidence of wages. No evidence of wages earned during this time period were provided by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not overpaid unemployment benefits from March 15, 2020, through July 25, 2020:

Iowa Code § 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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.

Iowa Code section 96.5(7) provides:

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

7. Vacation pay.

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.1A, subsection 41, and shall be applied as provided in paragraph "c" hereof.

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation. The amount of a payment or obligation to make payment, is deemed "wages" as defined in section 96.1A, subsection 41, and shall be applied as provided in paragraph "c" of this subsection 7.

c. Of the wages described in paragraph "a" or paragraph "b", a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted, not to exceed five workdays. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums equal or exceed the individual's weekly benefit amount. If the amount is less than the weekly benefit amount of such individual, the individual's benefits shall be reduced by such amount.

Based on the evidence presented during the hearing, claimant did not work for the employer after March 16, 2020. Claimant did not perform work again until September 7, 2021, when he started a new position. As a result, claimant was totally unemployed.

For the week ending March 21, 2020, claimant reported \$120.00 in vacation pay. This vacation pay is 100% deductible from claimant's weekly benefit amount. Claimant's weekly benefit amount was \$326.00. The weekly benefit must be reduced by the \$120.00 in vacation pay claimant received. As a result claimant was entitled to \$206.00 in benefits for the week ending March 21, 2020.

Claimant testified he did not work for the employer during the week ending April 11, 2020. Iowa Workforce Development determined claimant was overpaid \$16.00 for the week. There was no evidence presented that established claimant worked this week. As a result, claimant is not overpaid \$16.00 for the week ending April 11, 2020.

Claimant testified he did not perform work for the employer for the week ending July 25, 2020. Iowa Workforce Development determined claimant was overpaid \$326.00 for this week. There was no evidence presented establishing claimant earned wages with the employer for this week. As a result, claimant is not overpaid \$326.00 in state unemployment benefits for the week ending July 25, 2020.

Claimant was not overpaid \$548.00 for three weeks between March 15, 2020, and July 25, 2020. Claimant is not required to repay these benefits.

DECISION:

The March 7, 2022 (reference 02) unemployment insurance decision is REVERSED. Claimant has not been overpaid regular unemployment insurance benefits in the gross amount of \$548.00 for three-weeks between March 15, 2020 through July 25, 2020. Claimant shall not repay these benefits.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Carly Smith
Administrative Law Judge

May 3, 2022

Decision Dated and Mailed

cs/mh