

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

Appeal Number: 06-IWDUI-195
OC: 03/26/06
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

AARON L ITES
605 DEPOT STREET
IOWA FALLS IA 50126

IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

DAN ANDERSON, IWD

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.

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.

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.

(Administrative Law Judge)

October 27, 2006

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated September 28, 2006, reference 05, which held that the claimant was overpaid unemployment benefits in the amount of \$324.00, because he failed to report wages earned with Heartland Finishes Inc. for the week ending July 8, 2006.

After due notice was issued, a hearing was held by telephone conference call on October 23, 2006. The claimant did not participate. Iowa Workforce Development, Investigation and Recovery,

participated by Sally Oordt, Investigator.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having examined all of the evidence in the record, finds that: The claimant filed a claim for unemployment benefits with an effective date of march 26, 2006. The department received a report that the claimant began full-time employment with Heartland Finishes Inc. on July 3, 2006, and that he worked twenty-nine hours, earning gross wages of \$392 for the week ending July 8, 2008. The department compared the employer's report against the claimant unemployment claim for the same week. The claimant reported no wages and he received a benefit of \$324 for the week ending July 8. Based on the employer's report, the claimant had excessive earnings, and he was not entitled to receive any benefit.

Investigator Oordt mailed a notice to the claimant regarding the \$324 overpayment, and he responded by stating that he disagreed with the information. Although the claimant advised Oordt he would check with his employer about the wages report, she did not hear from the claimant, and the decision was issued.

After the claimant's appeal, Oordt re-checked the employer's wage report, and she received time card records that verified the claimant worked twenty-nine hours the week ending July 8.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is overpaid benefits \$324.00.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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 division of job service 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 division a sum equal to the overpayment.

If the division determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant is overpaid benefits \$324.00 for the week ending July 8, 2006 pursuant to Iowa Code Section 96.3-7. The department received verified wage information that the claimant earned \$392 the week ending July 8 that confirms he earned excessive wages, which causes him to be overpaid benefits.

DECISION:

The decision of the representative dated September 28, 2006, reference 05, is AFFIRMED. The

claimant is overpaid benefits \$324.00.

rls