

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 14IWDUI350

OC: 06/02/13

Claimant: Appellant (6)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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 Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

SAID M. ALADIN
2201 26TH STREET APT 19
DES MOINES, IA 50310

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

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
150 DES MOINES ST
DES MOINES IA 50309

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.

MICHELLE SADDORIS, IWD

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.

JONI BENSON, IWD

(Administrative Law Judge)

February 3, 2015

(Decision Dated & Mailed)

871—Iowa Administrative Code 26.14(6) -- Default by Claimant

STATEMENT OF THE CASE

By decision dated October 3, 2014 (reference 05), the Iowa Workforce Development (“IWD”) informed the Claimant, Said M. Aladin (Mr. Aladin) that IWD determined that he was overpaid \$804 for the three week period between November 24, 2013 and December 14, 2013. Mr. Aladin filed an appeal December 20, 2013.

The case was transmitted from IWD to the Department of Inspections and Appeals on December 8, 2014 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties setting a hearing date of January 21, 2015 at 8:00 a.m. The Notice sent to Mr. Aladin was not returned as undeliverable by the U.S. Postal Service. Mr. Aladin failed to participate in the hearing. Michelle Saddoris appeared for IWD. Administrative notice was taken of documents in the file.

ISSUES

Three issues were asserted by IWD on appeal: 1) whether the Claimant submitted a timely appeal from the October 3, 2014 decision; 2) whether IWD correctly determined that the Claimant was overpaid unemployment benefits, and if so, whether the amount of overpayment was correctly calculated; and 3) whether IWD correctly determined the overpayment was a result of misrepresentation.

FINDINGS OF FACT

On September 10, 2014, IWD mailed a preliminary audit notice to Mr. Aladin, who had been receiving unemployment benefits pursuant to a claim he filed on June 2, 2013. The audit notice informed Mr. Aladin of a potential overpayment of unemployment benefits in the amount of \$804 because Mr. Aladin failed to report wages paid to him for work performed on behalf of Staffing Solutions. Mr. Aladin did not respond to the audit notice. On October 3, 2014 IWD sent a decision to Mr. Aladin informing him that he was deemed overpaid \$804 for three weeks during that time period. The decision from IWD stated in part as follows:

This decision becomes final unless an appeal is postmarked by 10/13/14, or received by Iowa Workforce Development Appeal Section by that date.

On December 3, 2014, the Appeals Section of IWD received the appeal from Mr. Aladin, which was dated December 2, 2014.

The audit in the administrative file shows the following:

Week Ending	Wages Reported by Mr. Aladin	Wages Reported by Employer	Amount of UI Benefits Paid to Mr. Aladin	Amount of UI Benefits that should have been Paid to Mr. Aladin	Overpayment
11/30/13	0	308.00	376.00	162.00	214.00
12/07/14	0	410.00	376.00	0	376.00
12/14/13	0	308.00	376.00	162.00	214.00

The total overpayment of unemployment benefits to Mr. Aladin for the three weeks was \$804.00. (Exhibit B2)

REASONING AND CONCLUSIONS OF LAW

IWD administrative rule 871—IAC 26.14(6) states in part, “If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal.”

In an IWD appeal, the Claimant bears the burden of proof to show that the agency's decisions were wrong. Because Mr. Aladin did not participate in the hearing, there is no way to know if he had a valid defense to any of the issues raised, including his failure to file a timely appeal.

This administrative tribunal finds that Mr. Aladin is in default. His appeal is dismissed.

DECISION

For the foregoing reasons, the appeal filed by Said M. Aladin is dismissed, reinstating IWD's decision dated October 3, 2014. IWD shall take any action necessary to implement this decision.

cjg