

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEMI L LADO
Claimant

APPEAL 22A-UI-09370-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/02/22
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 6, 2022 (reference 04) unemployment insurance decision that found claimant was overpaid regular unemployment insurance benefits in the amount of \$1,142.00 for the weeks between March 6, 2022 and March 19, 2022. The claimant was properly notified of the hearing. An in-person hearing was held on May 12, 2022 in Des Moines, Iowa. The claimant participated in-person personally. Language Link provided language interpretation services to the claimant. The employer, Vermeer Manufacturing Company Inc., participated via telephone through witness Jeri Griffith. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is the claimant overpaid regular unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed for unemployment insurance benefits effective January 2, 2022. His weekly benefit amount was \$571.00. Claimant's administrative records indicated that he filed weekly-continued claims for the week-ending March 12, 2022 and March 19, 2022 and was paid his gross weekly amount of \$571.00 for each of those two weeks. The claimant began working full-time for Vermeer Manufacturing Company Inc. on March 7, 2022. His hourly wage was \$22.00. For the week-ending March 12, 2022, he worked 40 hours per week. For the week-ending March 19, 2022, he worked 40 hours per week.

Claimant testified that he did not file a weekly-continued claim for the week-ending March 19, 2022 and did not receive any payment of benefits for the week-ending March 19, 2022. Claimant's administrative records indicate that payment of benefits for the week-ending March 19, 2022 were issued to his debit card on March 22, 2022. Claimant testified that he checked the debit card on April 6, 2022 and there were no funds deposited for the week-ending March 19, 2022.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.1A(37) provides as follows:

Definitions. As used in this chapter, unless the context clearly requires otherwise:

37. "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 96.5(5) provides:

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

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

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 deductions 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.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.1A(37).

Iowa Code § 96.3(7)a provides:

7. Recovery of overpayment of benefits.

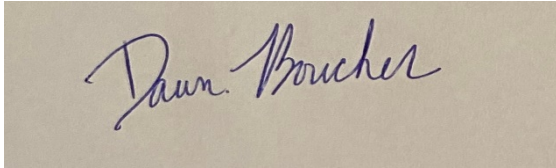
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, **even though the individual acts in good faith and is not otherwise at fault**, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either 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.

(emphasis added).

In this case, the claimant was paid regular unemployment insurance benefits from March 6, 2022 through March 19, 2022 in the amount of \$1,142.00 but was not entitled to those benefits because he was already working full-time for Vermeer Manufacturing Company Inc. and earned in excess of his weekly-benefit amount, plus \$15.00. See Iowa Code § 96.5(5). As such, the claimant is overpaid \$1,142.00 for the two-week period ending March 19, 2022.

DECISION:

The April 6, 2022 (reference 04) unemployment insurance decision is affirmed. The claimant was overpaid regular unemployment insurance benefits in the amount of \$1,142.00 for the weeks between March 6, 2022 and March 19, 2022.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive style on a light-colored, textured background.

Dawn Boucher
Administrative Law Judge

May 17, 2022
Decision Dated and Mailed

db/db