

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL NELSON
Claimant

CNOS FOUNDATION
Employer

APPEAL 22A-UI-04850-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.5(5) - Deductions
Iowa Admin Code r. 871-24.18 – Wage Earning Limitations

STATEMENT OF THE CASE:

On February 17, 2022, the claimant filed an appeal from the February 14, 2022, (reference 01) unemployment insurance decision that determined that the claimant was overpaid regular unemployment benefits in the amount of \$1,054.00 for a three-weeks between March 29, 2020m through July 4, 2020. The parties were properly notified about the hearing. A telephone hearing was held on March 30, 2022. Claimant, Daniel Nelson participated and testified. Employer participated through Lisa Mulder, Finance Director. Department Exhibit 1-2 were admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant's weekly benefit amount correctly calculated?

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was laid off due to lack of work for the week ending April 4, 2020. The employer submitted a Wage record that indicated that the claimant was paid \$860.80 in gross wages and \$215.20 in vacation pay for the week ending April 4, 2020. (Department Exhibit 1). Additionally the employer indicated that the claimant was paid \$430.40 in gross wages for the weeks ending June 27 and July 4, 2020. (*Id*). The employer testified that they incorrectly reported wages for those weeks. The \$868.80 was earned for the week ending March 28, 2020 and not the week ending April 4m 2020 as stated in its written response. The claimant properly reported these wages correctly for the week ending March 28, 2020, as stated in the claimant's DBRO screen below. The claimant was not paid any benefits for this week. (See DBRO below)

DBRO/		OFC 12-01-1390-19-193 03/30/22 PAGE 2									
		CHECK-DIGIT= 6									
PAYMENT-RECORDS . .		***** UI ***** FE *****									
BWE-DATE	RPT-CODE	AMT-RP	ISSUE-DT	P	PAY-CODE	AMOUNT	PAY-CODE	AMOUNT	PGM	TR	
03/28/20	OVER15	999.00	04/09/20	4	PAID-W	.00		.00	01		
04/04/20	CLEAR	.00	04/09/20	4	PAID-D	545.00		.00	01		
04/11/20	CLEAR	.00	04/13/20	2	PAID-D	545.00		.00	01		
04/18/20	CLEAR	.00	04/20/20	2	PAID-D	545.00		.00	01		
04/25/20	CLEAR	.00	04/27/20	2	PAID-D	545.00		.00	01		
05/02/20	CLEAR	.00	05/04/20	2	PAID-D	545.00		.00	01		
05/09/20	CLEAR	.00	05/11/20	2	PAID-D	545.00		.00	01		
05/16/20	CLEAR	.00	05/20/20	2	PAID-D	545.00		.00	01		
05/23/20	CLEAR	.00	05/26/20	2	PAID-D	545.00		.00	01		
05/30/20	CLEAR	.00	06/01/20	2	PAID-D	545.00		.00	01		
06/06/20	CLEAR	.00	06/08/20	2	PAID-D	545.00		.00	01		
06/13/20	CLEAR	.00	06/15/20	2	PAID-D	545.00		.00	01		
06/20/20	OVER15	215.00	06/22/20	2	PAID-D	466.00		.00	01		
06/27/20	OVER15	215.00	06/29/20	2	PAID-D	466.00		.00	01		
07/04/20	CLEAR	.00	07/06/20	2	PAID-D	545.00		.00	01		

Claimant's DBRO print out.

The employer further clarified that the claimant only worked 8 hours for the two week ending June 27, 2020 and July 4, 2020. These correction is consistent with the claimant's reported wages for those two weeks as documented on his DBRO screen. The claimant's DBRO screen correctly states the wages the claimant earned for the weeks in question.

The employer was directed to submit a corrected Wage Record to comport with its testimony during the hearing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant correctly reported wages for the three weeks ending April 3, 2020, June 26, 2020, and July 3, 2020, and was not overpaid as a result.

Iowa Code section 96.3(7) provides, in pertinent part:

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.

b. (1) (a) If the department 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.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

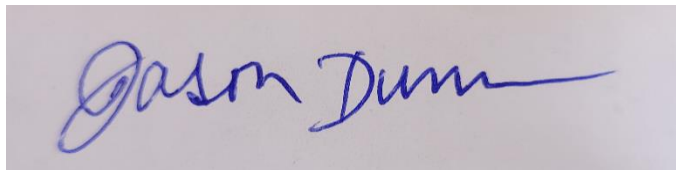
Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

The employer's testimony corrected the errors that they made on its written wage record and those corrections correlate to the wages the claimant reported for the weeks in questions. The claimant's weekly benefit amount was properly calculated and he was not overpaid benefits. (Department Ex. 1).

DECISION:

The February 14, 2022, (reference 01) unemployment insurance decision is reversed. Wages were correctly reported. The claimant was not overpaid unemployment insurance benefits in the amount of \$1,054.00.



Jason Dunn
Administrative Law Judge
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April 5, 2022
Decision Dated and Mailed

jd/jh