

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AKBAR ABADIAN
Claimant

APPEAL 18A-UI-08815-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/10/18
Claimant: Appellant (2R)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 12, 2018, (reference 02), unemployment insurance decision that found claimant overpaid unemployment insurance benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on September 10, 2018. Claimant participated personally through Interpreter 9693 with CTS Language Link. Madonna Abadian-Vahdut testified. Department's Exhibit D-1 was received.

ISSUES:

Is the appeal timely?
Has the claimant been overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: An unemployment insurance decision finding claimant overpaid unemployment insurance benefits was mailed to the claimant's last known address of record on July 12, 2018. Claimant did not receive the decision. Claimant's first notice of the decision was an overpayment billing statement that was mailed on August 14, 2018. After his daughter translated the statement for him and contacted Iowa Workforce Development, he filed an appeal on August 20, 2018.

Claimant received unemployment insurance benefits in the amount of \$1,062.00 for the three weeks ending June 30, 2018. On July 10, 2018, a decision was issued disqualifying claimant from receiving those benefits. Claimant filed an appeal. In Appeal Number 18A-UI-08814-CL-T, an administrative law judge found that the part-time resignation from employment should not disqualify claimant from receiving benefits and remanded the case for a recalculation of claimant's weekly unemployment insurance benefit after removal of the part-time wages.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits in the amount of \$1,062.00.

Iowa Code § 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) 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 § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$1,062.00, pursuant to Iowa Code § 96.3(7), as an administrative law judge determined the claimant was not disqualified from receiving those benefits. However, the administrative law judge remanded the case for a new calculation of claimant's monetary determination based on a removal of the part-time wages. The claimant may have been overpaid benefits based on the new calculation.

DECISION:

The July 12, 2018, (reference 02) unemployment insurance decision is reversed. The appeal is timely. The claimant has not been overpaid unemployment insurance benefits in the amount of \$1,062.00.

REMAND:

The issue of whether claimant was overpaid benefits during the three weeks ending June 30, 2018, based on the new calculation of claimant's monetary determination and weekly benefit amount is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn