

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHARLOTTE F EASTERWOOD
Claimant

APPEAL 17A-UI-07824-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (4R)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.5(2)a - Requalification

STATEMENT OF THE CASE:

Charlotte F. Easterwood (claimant) appealed an unemployment insurance decision dated July 31, 2017, reference 06, that concluded she was overpaid \$709.00 in unemployment insurance benefits. A telephone hearing was scheduled to be held on August 24, 2017. Proper notice of the hearing was given to the claimant. However, no hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUES:

Did the claimant requalify for benefits?

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a claim for unemployment insurance benefits effective September 20, 2015 and her weekly benefit amount (WBA) was \$251.00. She was discharged from her employer Comprehensive Systems, Inc. (CSI) on August 12, 2016. On August 28, 2016, the claimant reactivated her claim for benefits. Iowa Workforce Development (IWD) issued an unemployment insurance decision dated September 22, 2016, reference 11, which disqualified the claimant from benefits based on that separation until she earned ten times her weekly benefit amount, or \$2,510.00, in insured wages.

After her separation from CSI, the claimant began working for Grin & Grow, LTD and Restaurant Concepts, Inc. She earned a total of \$2,555.00 in the fourth quarter of 2016 with these employers. She was temporarily separated from Grin & Grow, LTD the week following Christmas and opened a new claim for benefits effective December 26, 2016. The claimant did not earn any of her fourth quarter wages during the last week of the quarter as she did not report any wages earned during her weekly continued claim for benefits.

The claimant separated from Restaurant Concepts, Inc. during the fourth quarter of 2016 as she did not earn any wages from this employer after that time. As it was not in her base period, it did not receive a notice of claim and was not afforded an opportunity to provide information about the separation. Additionally, the claimant was permanently separated from Grin & Grow LTD in the first quarter of 2017. IWD has not issued decisions addressing the claimant's eligibility for benefits based on these separations.

The claimant received a total of \$709.00 in unemployment insurance benefits during the weeks ending December 31, 2016, January 7, 2017 and February 25, 2017. On July 31, 2017, IWD mailed the claimant the unemployment insurance decision that notified her that she had been overpaid for those three weeks as she was disqualified from receiving benefits based on her separation from CSI.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds the claimant requalified for benefits following her separation from CSI and before claiming benefits in her second claim year. As a result, she was not overpaid unemployment insurance benefits based on her separation from CSI.

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.

Iowa Code section 96.5(2)a provides:

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

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant was discharged from CSI for disqualifying misconduct on August 12, 2016, which is part of the third quarter of 2016, during her September 20, 2015 claim year. During the fourth quarter of 2016 and before she opened a new claim for benefits effective December 26, 2016, the claimant earned ten times her weekly benefit amount in insured wages. The claimant had requalified for benefits from this employer after her disqualifying separation and before she claimed for benefits in her second claim year. She was eligible for benefits based on the separation from CSI for the weeks ending December 31, 2016, January 7, 2017 and February 25, 2017 and was not overpaid benefits based on that separation. As the claimant had requalified, CSI's account is not subject to charge for the benefits the claimant received.

DECISION:

The unemployment insurance decision dated July 31, 2017, reference 06, is modified in favor of the appellant. The claimant was not overpaid \$709.00 in unemployment insurance benefits, as she had requalified for benefits following her separation from CSI. Additionally, Comprehensive Systems, Inc. (account number 068583) shall not be charged for the benefits received.

REMAND:

The claimant's separations from Grin & Grow LTD (account number 143595) and Restaurant Concepts, Inc. (account number 231898) delineated in the findings of fact are remanded to the Benefits Bureau for initial investigations and determinations.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn