

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHANTHAMALAY THAMMAVONGSA
Claimant

APPEAL 17A-UI-10649-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/25/16
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Chanthamalay Thammavongsa (claimant) filed an appeal from the October 9, 2017, reference 09, unemployment insurance decision that found she was overpaid unemployment benefits because she voluntarily quit employment with Plastic Product Co., Inc. (employer) without good cause attributable to the employer. The parties were properly notified about the hearing scheduled in Davenport, Iowa on November 16, 2017 at 9:00 a.m. On November 8, 2017, the claimant requested to reschedule the hearing and change it to a telephone hearing. The claimant's request was granted and the claimant indicated via email that she would be available for a hearing on November 30, 2017 at 2:00 p.m. Hearing notices for the updated time and date were issued.

On November 30, 2017, the claimant had not registered for the hearing by 2:00 p.m. At 1:48 p.m., the claimant's daughter Miller Thammavongsa sent an email message to the Appeals Bureau asking to participate on her mother's behalf or request to reschedule the hearing. Thammavongsa and Human Resources Administrator Jane Molony were contacted. Molony had a fact-finding interview with Iowa Workforce Development (IWD) at 2:25 p.m. They agreed to reschedule the hearing for December 14, 2017 at 11:00 a.m. The participants were put on notice that the hearing would be scheduled for two hours and no further requests to reschedule would be granted barring an extreme emergency.

A telephone hearing was held on December 14, 2017, pursuant to due notice. Initially the claimant participated. Before witnesses were sworn and testimony could be taken, the claimant asked how long the hearing would take and learned it could take up to two hours. The claimant stated she needed to shower before going to work and did not have that kind of time. She was told that she had been granted earlier postponements and another one would not be granted. Approximately 43 minutes into the recording for the hearing, the claimant declined to participate further and disconnected from the hearing. Her daughter Miller Thammavongsa participated on her behalf. The employer participated through Molony. Laotian interpretation was provided by Jantima (employee number 22696) from CTS Language Link. No exhibits were offered or received into the record.

ISSUE:

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a claim for unemployment insurance benefits with an effective date of December 25, 2016. The claimant filed for and received a total of \$4,777.00 in unemployment insurance benefits for the 11 weeks between April 30, 2017 and July 15, 2017.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 17A-UI-10648-SC-T.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$4,777.00 in unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated October 9, 2017, reference 09, is affirmed. The claimant was overpaid \$4,777.00 in unemployment insurance benefits, which must be repaid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn