

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

BARBARA G PETERSON
Claimant

APPEAL NO: 07A-UI-08545-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/05/07 R: 03
Claimant: Appellant (2)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year
Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 24, 2007 reference 04 decision that denied benefits based upon a lack of qualifying earnings and found the claimant overpaid \$660.00 for the two weeks ending August 18, 2007. After due notice was issued, a telephone conference hearing was held on September 24, 2007. Claimant participated.

ISSUE:

The issue is whether claimant is overpaid benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The monetary record reflects claimant was paid gross wages of \$6,603 from Complete Collection Service (employer account number 331310) during the second quarter of 2006. The claimant did not work for this employer in 2006 and therefore she would have no gross wages for the second quarter of 2006.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did have sufficient wages in the base period for benefit eligibility.

Iowa Code § 96.4-4 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were

highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Iowa Code § 96.3-4 provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Since the wages for the second quarter of 2006 in the August 7, August 14, August 21 and August 23, 2007 monetary redeterminations were included in error, those wages must be removed.

The administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code § 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$660.00 pursuant to Iowa Code § 96.3(7) as the August 7, 2007 monetary determination and the August 14, August 21 and August 23, 2007 redeterminations of wages that created the overpayment decision has now been reversed.

DECISION:

The August 7, 2007 August 14, August 21 and August 23 monetary redeterminations are reversed as is the August 24, 2007, reference 04 decision as to Complete Collection Service (employer account number 331310). The wages in the second quarter of 2006 shall be removed and claimant has not been overpaid unemployment insurance benefits in the amount of \$660.00.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs