

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRY L WILSON
Claimant

APPEAL 19A-UI-09451-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/27/19
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On December 2, 2019, the claimant filed an appeal from the November 27, 2019, (reference 04), unemployment insurance decision that found claimant overpaid unemployment insurance benefits based upon a decision finding him unable to work. After due notice was issued, a telephone conference hearing was scheduled to be held on December 27, 2019. Claimant participated.

ISSUE:

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant received unemployment insurance benefits in the amount of \$969.00 for the three weeks ending November 16, 2019. On November 25, 2019, Iowa Workforce Development issued a reference 01 decision denying benefits effective October 27, 2019. That decision was modified in Appeal Number 19A-UI-09450-CL-T. In that decision, the administrative law judge allowed benefits from October 27, 2019, through November 24, 2019.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits based on his availability for work.

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 \$969.00 pursuant to Iowa Code § 96.3(7) as claimant was eligible for benefits during the three weeks ending November 16, 2019.

However, there is a remaining issue of whether claimant was overpaid benefits based on a recalculation of his weekly benefit amount. That matter will be remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and initial decision.

DECISION:

The November 27, 2019, (reference 04) unemployment insurance decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$969.00 based on his unavailability for work. Claimant was available for work during the time period in question.

REMAND:

The issue of whether claimant has been overpaid benefits based on the recalculation of his weekly benefit amount is remanded to the Benefits Bureau of Iowa Workforce Development for an initial decision.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

December 31, 2019
Decision Dated and Mailed

cal/scn