

IOWA DEPARTMENT OF INSPECTIONS AND  
APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**RICHARD FELTS**  
**PO BOX 316**  
**ELMA, IA 50628**

**IOWA WORKFORCE DEVELOPMENT  
INVESTIGATIONS AND RECOVERY  
JANE CONNOR  
150 DES MOINES STREET  
DES MOINES IA 50309**

JOE WALSH, IWD

**Appeal Number: 13IWDUI041**  
**OC: 12/02/12**  
**Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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March 29, 2013

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(Decision Dated & Mailed)

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Iowa Code section 96.5-8 – Administrative Penalty

**STATEMENT OF THE CASE**

Richard Felts filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 10, 2013, reference 01. In this decision, the Department imposed an administrative penalty that disqualified Felts from receiving unemployment insurance benefits from January 6, 2013 until the end of his benefit year on November 30, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 18, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 24, 2013. On March 25, 2013, a telephone appeal hearing was held before Administrative Law Judge Ann

Brenden. Investigator Jane Connor represented the Department and presented testimony. Exhibits 1 through 8 were submitted by the Department and admitted into the record as evidence. The Appellant did not appear for the hearing.

### **ISSUES**

1. Whether the Department correctly determined the claimant is ineligible to receive unemployment insurance benefits.
2. Whether the Department correctly imposed an administrative penalty on the basis of false statements made by the Appellant.

### **FINDINGS OF FACT**

Richard Felts filed a claim for unemployment insurance benefits from February 5 to March 31, 2012, during which time he was working for Cedar Valley Corp. (Connor testimony; Exhs. 1-8). A document completed by Cedar Valley Corp. personnel confirmed Mr. Felts' employment during the weeks of February, 5, 12, 19, and 26; March 11, 18, and 25. (Exh. 7). During that time, Mr. Felts claimed and collected unemployment insurance benefits in the amount of \$436 per week for the weeks ending February 11, 18, and 25; for March 3, 10, 17, 24, and 31. (Exh. 6).

An overpayment decision was issued on August 14, 2012 telling Felts that he was overpaid \$2,842.00 for claims from 2/25 to 3/22/2012. Felts did not appeal the overpayment decision. (Connor testimony).

On December 18, 2012, Ms. Connor sent Felts a letter advising him that he had an overpayment of \$2842.00 for benefits beginning 2/5/2012 and ending 3/31/12, caused by his failure to report his correct work and wages earned with Cedar Valley Corp. (Exh. 4). The letter indicated that because he gave false information on his claims during those weeks, Iowa Workforce Development would determine the assessment of an Administrative Penalty on his current claim. It advised Mr. Felts that he was being given the opportunity to respond by mail concerning this issue. Mr. Felts responded by calling Ms. Connor, asking if the overpayment was getting offset. Ms. Connor responded that it was, but that he was still subject to an administrative penalty, which could deny him weeks on his claim. She encouraged him to send in information that he wanted considered. (Connor testimony).

The Department issued the administrative penalty decision that is the basis of this appeal on January 10, 2013. The decision advised that the Department's records indicated that Mr. Felts made false statements concerning his employment and earnings to receive unemployment insurance benefits from 2/5/12 until 3/31/12, for which an administrative penalty was imposed, disqualifying him from receiving benefits from 1/6/13 until the end of his benefit year on 11/30/13. (Exh. 2).

Ms. Connor testified that she decided to impose the maximum penalty because Felts had continued to falsify claims. He had a prior overpayment and administrative penalty (8-week disqualification) in 2006, an overpayment in 2009 without administrative penalty,

and another overpayment in 2011. This history demonstrated a continuing pattern of not reporting his wages to IWD even though he was working. (Connor testimony).

### **REASONING AND CONCLUSIONS OF LAW**

The Department is authorized to impose an administrative penalty when it determines that an individual has, within the thirty-six preceding calendar months, willfully and knowingly made a false statement or misrepresentation or willfully and knowingly failed to disclose a material fact with the intent to obtain unemployment benefits to which the individual is not entitled.<sup>1</sup>

The imposition of an administrative penalty results in the forfeiting of all unemployment benefits for a period of time to be determined by the Department; the period, however, cannot exceed the remainder of the individual's benefit year.<sup>2</sup>

The Department's investigator considers the facts and nature of the offense in determining the degree and severity of the penalty. The penalty range for falsification is from three weeks through the remainder of the benefit year. The investigator has broad discretion to determine the actual penalty to be imposed within the range.<sup>3</sup>

In this case, Mr. Felts collected unemployment insurance benefits for the claimed period of time during which he was actually employed. His claims were fraudulent during the period he collected benefits while employed, from February 5, 2012 until March 31, 2012. Given Mr. Felt's prior history of making false claims, including a previous disqualification, the Department was within reason in disqualifying him for the maximum possible period.

For all the reasons stated herein, and based on the statutes and regulations that apply, the undersigned finds no error or abuse of discretion in the Department's determination as to the propriety and length of administrative penalty in this case, or in its determination that Mr. Felts is ineligible to collect unemployment insurance benefits.

### **DECISION**

Iowa Workforce Development's decision dated January 10, 2013, reference 1, is AFFIRMED. The Department correctly imposed the administrative penalty. The Department shall take any action necessary to implement this decision.

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<sup>1</sup> Iowa Code § 96.5(8) (2011).

<sup>2</sup> *Id.*

<sup>3</sup> 871 Iowa Administrative Code (IAC) 25.9(2).