

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

Appeal Number: 13IWDUI332
OC: 12/16/12
Claimant: Appellant (3)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JARED ACHESON
4117 66TH STREET
URBANDALE, IA 50322

INVESTIGATIONS AND RECOVERY, IWD
IRMA LEWIS, INVESTIGATOR

TERESA HILLARY
JONI BENSON, IWD

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 written Notice of Appeal, directly to the **Employment Appeal Board, 4th 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.

(Administrative Law Judge)

August 20, 2013
(Dated and Mailed)

Iowa Code section 96.6-2 – Recovery of Overpayment Benefits
Iowa Code section 96.16-4 – Misrepresentation

STATEMENT OF THE CASE

Claimant/Appellant Jared Acheson filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated June 28, 2013, reference 01 finding he had been overpaid \$449 for the week of April 13, 2013 because he failed to report wages earned with Cramer and Associates. IWD determined the overpayment was due to misrepresentation.

On July 5, 2013, IWD transmitted the case to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Acheson.

A contested case hearing was held on August 20, 2013. Acheson and his wife, Becky Acheson, appeared and testified. Irma Lewis appeared and testified on behalf of IWD. Exhibits 1 through 3 were admitted into the record.

ISSUES

Whether IWD correctly determined that the Claimant was overpaid unemployment benefits, and, if so, whether the overpayment was correctly calculated.

Whether IWD correctly determined the overpayment was a result of misrepresentation.

FINDINGS OF FACT

Acheson has received unemployment insurance benefits in the past. IWD conducted an audit of Acheson's file. Lewis testified Acheson's weekly benefit amount was \$449. For the week of April 7, 2013 through April 13, 2013 he did not report any wages. Lewis testified Acheson's employer reported he earned \$881. IWD determined the overpayment was due to misrepresentation.

Mrs. Acheson reported her husband received payment from his employer one week after he started working. She mistakenly believed he did not need to report he was working when she entered the information for his unemployment for the week ending April 13, 2013.¹

REASONING AND CONCLUSIONS OF LAW

I. Overpayment

When IWD determines an individual who received unemployment benefits was ineligible to receive benefits, IWD must recoup the benefits received irrespective of whether the individual acts in good faith and is not otherwise at fault.² IWD may, in its discretion, recover the overpayment either by having a sum equal to the overpayment deducted from any future benefits payable to the individual, or by having the individual pay IWD a sum equal to the overpayment.³

¹ Acheson reported that for the prior benefit year IWD did not correctly provide him with unemployment benefits he was entitled to. I informed Acheson that was not an issue certified for hearing and that if he believed the amount of his benefits was incorrect for the prior benefit year, he needed to separately appeal that determination.

² Iowa Code § 96.3(7) (2011).

³ *Id.*

An individual is totally unemployed in any week the individual has no payable wages.⁴ An individual is deemed partially unemployed when the individual works less than the individual's regular full-time week and earns less than the individual's weekly benefit, plus \$15.⁵ An individual who is totally unemployed in any week must be paid benefits equal to the individual's weekly benefit amount.⁶ An individual who is partially unemployed shall be paid an amount equal to the individual's weekly benefit amount, less the portion of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount.⁷ The benefit amount is rounded to the lower multiple of one dollar.⁸

Acheson's weekly benefit amount was \$449. To be partially unemployed Acheson's earnings had to be less than his weekly benefit amount of \$449, plus \$15, or \$464. For the week ending April 13, 2013, Acheson earned \$881. Because his earnings exceeded \$464, IWD correctly determined Acheson was not entitled to any unemployment for the week ending April 13, 2013. IWD's determination that Acheson received a \$449 overpayment is affirmed.

II. Misrepresentation

IWD determined the overpayment occurred because of misrepresentation. If an individual, by reason of a nondisclosure or misrepresentation receives unemployment benefits, IWD may either deduct the overpayment amount from any future benefits payable to the individual or seek repayment directly from the individual.⁹ Acheson failed to correctly report he was working for one week. His wife testified he did not receive payment for his first week of work, but he received it the second week. She testified she made a mistake. IWD has not established the overpayment was due to misrepresentation.

DECISION

IWD's correctly found Acheson received a \$449 overpayment, but has not proven the overpayment was due to misrepresentation, and its decision is MODIFIED.

hlp

⁴ *Id.* § 96.19(38)a.

⁵ *Id.* § 96.19(38)b(1).

⁶ *Id.* § 96.3(2).

⁷ *Id.* § 96.3(3).

⁸ *Id.*

⁹ *Id.* § 96.16(4).