

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PEYTON N BROWN
Claimant

APPEAL NO. 21A-UI-13275-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On May 31, 2021, the claimant Peyton N. Brown appealed the December 8, 2020, (reference 03) decision that concluded the claimant was overpaid regular unemployment insurance benefits in the amount of \$241.00 for the six-week period ending May 23, 2020. Claimant was properly notified of the hearing. A telephonic hearing was held at 2:05 p.m. on Monday, August 9, 2021. Appeal Hearings 21A-UI-13274-LJ-T, 21A-UI-13275-LJ-T, and 21A-UI-13276-LJ-T were all held together. The claimant, Peyton N. Brown, participated. The employer, Building Blocks Childcare & Preschool, participated through Stacy Eldridge, Manager for Building Blocks. Claimant's Exhibits and B were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid regular unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed for and has received regular unemployment insurance benefits in the gross amount of \$241.00 for the six-week period ending May 23, 2020. Claimant testified during the hearing that she has repaid this amount to the agency.

On July 2, 2020, Iowa Workforce Development (IWD) issued a decision (reference 02) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been affirmed. See 21A-UI-13274-LJ-T.

The reference 02 decision finding claimant ineligible for benefits was mailed to claimant's last known address of record on July 2, 2020. She did receive the decision within ten days. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by

July 12, 2020. Claimant chose not to appeal at the time she received the reference 02 decision. She had never filed for unemployment insurance benefits before and did not know how the process worked. Instead of reaching out to Iowa Workforce Development for assistance or reading the instructions on how to appeal on her decision, claimant spoke to her mom and then decided not to appeal.

Next, the reference 03 decision finding claimant overpaid regular unemployment insurance benefits was mailed to claimant's last known address of record on December 8, 2020. Claimant received that decision within ten days. Instead of appealing that decision, claimant elected to pay the outstanding balance. Claimant admits she made no attempt to appeal this decision at the time it was received.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

As an initial matter, the administrative law judge finds claimant failed to file a timely appeal. Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law

judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). 00194 Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Here, claimant received the reference 03 decision in December 2020 and was aware at that time that she was overpaid regular unemployment insurance benefits. Claimant elected not to file an appeal of that decision at the time it was received. Instead, claimant opted to pay the balance owing. The window of time in which to file an appeal is now closed. Claimant's appeal is untimely.

Even if claimant filed a timely appeal, the administrative law judge finds she has been overpaid regular 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.

b. (1) (a) 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 been overpaid regular unemployment insurance benefits in the amount of \$241.00 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has been affirmed.

DECISION:

The December 8, 2020 (reference 03) decision is affirmed. Claimant has been overpaid regular unemployment insurance benefits in the amount of \$241.00.



Elizabeth A. Johnson
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August 13, 2021
Decision Dated and Mailed

lj/scn