

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL B OWEN
Claimant

APPEAL NO. 19A-UI-10143-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/10/19
Claimant: Appellant (2R)**

Iowa Code § 96.3(7) - Overpayment

STATEMENT OF THE CASE:

Michael Owen filed a timely appeal from the December 20, 2019, reference 04, decision that held he was overpaid \$1,532.00 in benefits for four weeks between November 3, 2019 and December 7, 2019, based on an earlier decision that disqualified him for benefits in connection with his separation from employer Advance Services, Inc. After due notice was issued, a hearing was held on January 17, 2020. Mr. Owen participated. The hearing in this matter was consolidated with the hearing in Appeal Number 19A-UI-10142-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant (DBRO).

ISSUE:

Whether the claimant was overpaid \$1,532.00 in benefits for four weeks between November 3, 2019 and December 7, 2019, based on an earlier decision that disqualified him for benefits in connection with his separation from employer Advance Services, Inc.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Michael Owen established an original claim for benefits that was effective November and received \$1,532.00 in benefits for four weeks between November 3, 2019 and December 7, 2019.

On December 13, 2019, an Iowa Workforce Development Benefits Bureau deputy entered a reference 03 decision that disqualified Mr. Owen for benefits, based on the deputy's conclusion that Mr. Owen voluntarily quit the employment on November 7, 2019 without good cause attributable to the employer. The disqualification decision prompted the overpayment decision from which Mr. Owen appeals in the present matter. The reference 03 decision has been reversed in Appeal Number 19A-UI-10142-JTT to allow benefits to Mr. Owen provided he meets all other eligibility requirements, based on the administrative law judge's determination that Mr. Owen separated from employer Advance Services, Inc. effective November 18, 2019 with good cause attributable to that employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because the December 13, 2019, reference 03, disqualification that prompted the December 20, 2019, reference 04, overpayment decision has been reversed on appeal, the administrative law judge concludes that Mr. Owen was not overpaid \$1,532.00 in benefits for four weeks between November 3, 2019 and December 7, 2019, based on an earlier decision that disqualified him for benefits in connection with his separation from employer Advance Services, Inc.

However, because Mr. Owen's testified he was on an approved vacation and was vacationing out-of-state during the entire week of November 10-16, 2019, this matter will be remanded to the Benefits Bureau for adjudication of whether Mr. Owen was available for work within the meaning of the law during the benefit week that ended November 16, 2019. That inquiry may also lead to a decision that Mr. Owen was overpaid benefits for the week that ended November 16, 2019.

DECISION:

The December 20, 2019, reference 04, decision is reversed. The claimant was not overpaid \$1,532.00 in benefits for four weeks between November 3, 2019 and December 7, 2019, based on an earlier decision that disqualified him for benefits in connection with his separation from employer Advance Services, Inc.

This matter is remanded to the Benefits Bureau for adjudication of whether the claimant was available for work within the meaning of the law during the benefit week that ended November 16, 2019 and, if not, whether the claimant was overpaid benefits for the week that ended November 16, 2019.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn