

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

BRENNA L GRIFFITH
Claimant

APPEAL NO: 14A-UI-12715-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC
Employer

OC: 07/13/14
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 5, 2014 (reference 04) determination that held her overpaid \$721 in benefits she received for the weeks ending July 19 through September 13, 2014. The overpayment is based on a decision issued by the Employment Appeal Board.

The claimant did not respond to the hearing notice or participate at the January 26, 2015 hearing. Kathy Freichs, the employer's controller, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant has been overpaid and is legally responsible for paying back the \$721 overpayment.

ISSUES:

Has the claimant been overpaid \$721 in benefits?

Is the claimant required to pay back the overpayment or will the employer's account be charged?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of July 13, 2014. She filed claims for the weeks ending July 19 through September 13, 2014. She received a gross benefit payment of \$721 for these weeks. Freichs participated at the fact-finding interview.

The Employment Appeal Board reversed a decision that held the claimant qualified to receive benefits and decided the claimant was not eligible to receive benefits as of July 13, 2014. See decision for Appeal No. 14B-UI-08510.

REASONING AND CONCLUSIONS OF LAW:

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7). Based on the Employment Appeal Board's decision in 14B-UI-08510, the claimant is not legally entitled to receive benefits as of July 13, 2014. She has been overpaid \$721 in benefits she received for the weeks ending July 19 through September 13, 2014.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b.

The employer participated at the fact-finding interview. Therefore, the claimant is legally responsible for paying back the \$721 overpayment.

DECISION:

The representative's December 5, 2014 (reference 04) determination is affirmed. Based on the Employment Appeal Board's decision, the claimant is not legally entitled to receive benefits as of July 13, 2014. She has been overpaid \$721 in benefits she received for the weeks ending July 19 through September 13, 2014. The claimant is legally responsible for paying back this overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can