

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT E GREENER**  
Claimant

**APPEAL NO. 11A-UI-02170-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/20/08  
Claimant: Appellant (1)**

Section 96.3-7 – Benefit Overpayment  
871 IAC 25.16 – State Income Tax Withholding

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated February 21, 2011, reference 01, which withheld an overpayment of unemployment insurance benefits from the claimant's Iowa state income tax refund. After due notice was issued, a telephone hearing was held on March 17, 2011. The claimant participated personally.

**ISSUE:**

The issue in this matter is whether the claimant has been overpaid unemployment insurance benefits and whether benefit overpayment was properly recovered from the claimant's state income tax refund.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: The claimant opened a claim for unemployment insurance benefits January 20, 2008. Mr. Greener had been determined to be overpaid unemployment insurance benefits in the amount of \$1,987.00 as of March 2, 2009. Mr. Greener submitted personal money orders in the amount of \$791.00 and \$834.00. These amounts, in addition to offset of benefits, reduced the overpayment balance to zero as of January 26, 2009.

Subsequently, by cross-matching, Iowa Workforce Development determined that Mr. Greener had been overpaid unemployment insurance benefits in the amount of \$4,407.00 between the periods of March 27, 2009, and June 6, 2009. Mr. Greener submitted personal money orders on two occasions in the amount of \$130.00 and one personal check in the amount of \$130.00, reducing the outstanding benefit overpayment to \$4,017.00 as of October 12, 2009. Based upon the claimant's failure to make restitution for the remainder of the overpayment, the claimant's 2010 state income tax has been withheld to offset the overpayment of unemployment insurance benefits previously accrued.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes, based upon the evidence in the record, that the claimant had an outstanding overpayment of unemployment insurance benefits in the amount of \$4,017.00.

Based upon state law, the Agency has withheld the claimant's state income tax refund to offset the overpayment of unemployment insurance benefits that had been issued to Mr. Greener and had yet been unpaid.

Iowa Code section 421.17 provides:

Powers and Duties of Director: In addition to the powers and duties transferred to the director of revenue and finance, the director shall have and assume the following powers and duties:

(29) To establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

For the reasons stated herein, the administrative law judge concludes the claimant's state income tax refund was properly withheld to offset an overpayment of unemployment insurance benefits previously accrued and which were unpaid.

**DECISION:**

The representative's decision dated February 21, 2011, reference 01, is affirmed. Overpayment of unemployment insurance benefits is properly being withheld from the claimant's state income tax refund.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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