

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ESMERALDA ZAPATA
Claimant

APPEAL 17A-UI-11379-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/20/17
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 6, 2017, (reference 06), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$363.00 for the one-week period ending October 7, 2017, as a result of a disqualification decision. After due notice was issued, a telephone hearing was scheduled and held on November 28, 2017, pursuant to due notice. Claimant participated. Official notice was taken of the administrative record, including claimant's benefit payment history and claimant's wage history, with no objection.

ISSUE:

Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by the disqualification decision from claimant's separation from the employer D OF S FOODS INC, which has modified in favor of the appellant in appeal number 17A-UI-11378-JP-T. Claimant received benefits in the gross amount of \$363.00 for the one-week period ending October 7, 2017. The employer (D OF S FOODS INC) is not a base period employer.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code section 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 claimant has not been overpaid unemployment insurance benefits in the amount of \$363.00 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has been modified in favor of the appellant in appeal number 17A-UI-11378-JP-T.

DECISION:

The November 6, 2017, (reference 06) unemployment insurance decision is reversed. Claimant has not been overpaid unemployment insurance benefits in the amount of \$363.00.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs