

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**MARILYN K LYON
RR 3 BOX 58
KAHOKA MO 63445**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-06040-AT
OC: 04/25/04 R: 04
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Marilyn K. Lyon filed a timely appeal from an unemployment insurance decision dated May 25, 2004, reference 04 which ruled that she had been overpaid by \$453.00 as the result of a fact-finding decision disqualifying her for benefits. After due notice was issued, a telephone hearing was held on June 14, 2004 with Ms. Lyon participating. This matter is considered on a consolidated record with 04A-UI-06039-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Marilyn K. Lyon received unemployment insurance benefits in the gross amount of \$453.00 for the three weeks ending May 15, 2004. The fact-finding decision disqualifying her for benefits has been reversed by the administrative law judge's decision in the companion case.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Lyon must repay the benefits she has received. She need not do so. Iowa Code Section 96.3-7 requires that unemployment insurance benefits be repaid if, and only if, the benefits were paid in error. Since the decision disqualifying Ms. Lyon for benefits has been reversed, it necessarily follows that she was entitled to receive the benefits in question. They need not be repaid.

DECISION:

The unemployment insurance decision dated May 25, 2004, reference 04, is reversed. The claimant has not been overpaid for the three weeks ending May 15, 2004.

kjf/kjf