

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MANUEL D MORALES MORALES
Claimant

APPEAL NO. 09A-UI-19577-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 8/30/09
Claimant: Appellant (1)**

Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 24, 2009, reference 04, which held that the claimant had been overpaid \$413.00 in unemployment insurance benefits for one week between August 30, 2009 and September 5, 2009. After due notice, a telephone conference hearing was scheduled for and held on February 9, 2010. Claimant participated. The record consists of the testimony of Manuel Morales Morales. Official notice is taken of agency records. Anna Pottebaum served as Spanish interpreter for the claimant.

ISSUE:

Whether the claimant was overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was paid unemployment insurance benefits in the amount of \$413.00 for the week between August 30, 2009 and September 5, 2009. In a decision dated September 28, 2009, a representative determined that the claimant was disqualified from receiving unemployment insurance benefits since he had voluntarily quit his job without good cause attributable to the employer. The claimant did not file a timely appeal of that decision. (Decision 09A-UI-19576-VST) The representative's decision is final.

REASONING AND CONCLUSIONS OF LAW:

The next issue is overpayment of benefits. Iowa Code section 96.3-7, as amended in 2008, provides:

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) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant acknowledged that he did receive \$413.00 in benefits. Even though he received these benefits in good faith, the benefits must still be repaid.

DECISION:

The decision of the representative dated November 24, 2009, reference 04, is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$413.00.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs