

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY J ERNZEN
Claimant

APPEAL NO. 07A-UI-10170-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/02/07 R: 04
Claimant: Appellant (2)**

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Kelly J. Ernzen (claimant) appealed a representative's November 1, 2007 decision (reference 04) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 20, 2007. This appeal was consolidated for hearing with one related appeal, 07A-UI-10169-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision reversing the representative's decision.

ISSUE:

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

A representative issued a decision dated October 31, 2007 (reference 03) that concluded the claimant was disqualified from receiving benefits due to a failure to respond to a notice for an investigatory interview. The claimant timely appealed that decision and in the concurrently issued decision in appeal 07A-UI-10169-DT, that decision has been reversed.

The overpayment decision was issued in this case as a result of the October 31, 2007 (reference 03) disqualification decision.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$636.00.

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.

The administrative law judge concludes that the claimant is not overpaid benefits due to the disqualification decision issued on October 31, 2007 (reference 03), which has now been reversed.

DECISION:

The representative's November 1, 2007 decision (reference 04) is reversed. The claimant is not overpaid benefits.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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