

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIN S VAN HOUTEN
Claimant

APPEAL NO. 10A-EUCU-01021-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/05/08
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Martin S. Van Houten filed a timely appeal from an unemployment insurance decision dated October 25, 2010, reference 02, that ruled he had been overpaid \$2,070.00 for the five weeks ending February 6, 2010 upon a finding that he was paid both Emergency Unemployment Compensation and regular state unemployment compensation for the same weeks. After due notice was issued, a telephone hearing was held January 15, 2011 on a consolidated record with 10A-EUCU-01020-AT.

ISSUE:

Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Martin S. Van Houten received Emergency Unemployment Compensation in the gross amount of \$2,070.00 for the five weeks ending February 6, 2010. He also received state unemployment insurance benefits for the same weeks.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant must repay the excess benefits he has received. He must. Iowa Code § 96.3-7 requires that benefits paid in error be repaid to the agency. The Supreme Court of Iowa has ruled that an overpayment cannot be waived. See Sievertsen v. Employment Appeal Board, 483 N.W. 2d 818 (Iowa 1992). The evidence in the record persuades the administrative law judge that Mr. Van Houten was paid twice for the same weeks. The Emergency Unemployment Compensation benefits must be repaid.

DECISION:

The unemployment insurance decision dated October 25, 2010, reference 02, is affirmed. The claimant has been overpaid \$2,070.00.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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