

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRENDA K LEE**  
Claimant

**APPEAL NO: 16A-UI-00440-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/06/09**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The claimant appealed a representative's December 29, 2009 decision (reference 03) that held her overpaid \$1,315.00 in benefits she received for the weeks ending September 12 through October 10, 2009. The overpayment occurred as the result of a representative's October 20, 2009 decision that disqualified the claimant from receiving benefits as of September 6, 2009. A telephone hearing was scheduled on February 20, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$1,315.00 in benefits?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of September 6, 2009. She filed claims and received benefits for the weeks ending September 12 through October 10, 2009. She received her maximum weekly benefit amount of \$238.00 for the weeks ending September 12 through October 10, 2009. For each of these weeks, the claimant also received an additional \$25.00 from the government's economic stimulus program.

An October 20, 2009 representative's decision disqualified the claimant from receiving benefits as of September 6, 2009. The claimant appealed this decision.

On December 11, 2009, an administrative law judge affirmed the October 20, 2009 decision. See decision for appeal 09A-UI-16366-VST. The claimant appealed this decision to the Employment Appeal Board who affirmed the decision on February 10, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and

was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Iowa Code § 96.3-7-b.

Based on the decision for appeal 09A-UI-16355-VST, the claimant is not legally entitled to receive benefits as of September 6, 2009. She has been overpaid a total of \$1,315.00 in benefits she received for the weeks ending September 12 through October 10, 2009.

The claimant is not at fault in receiving the overpayment. She is not eligible for a waiver of the overpayment because the initial decision disqualified her from receiving benefits. Therefore, the claimant is required to pay back the overpayment.

**DECISION:**

The representative's December 29, 2009 decision (reference 03) is affirmed. The claimant has been overpaid \$1,315.00 in benefits she received for the weeks ending September 12 through October 10, 2009. The claimant is required to pay back this overpayment.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css