

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW MCALISTER
Claimant

APPEAL NO. 09A-UI-14997-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/07/09
Claimant: Appellant (2)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 25, 2009, reference 02, which held claimant had been overpaid unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 18, 2009, in Davenport, Iowa. Claimant participated. This matter was heard along with an appeal filed by the claimant from a representative's decision dated July 22, 2009, reference 01, which held that the claimant was not entitled to unemployment insurance benefits. That denial of benefits was affirmed by an administrative law judge decision on August 13, 2009. The overpayment decision was then issued after the administrative law judge decision. However, the Employment Appeal Board remanded the claimant's appeal on the disqualification issue on October 16, 2009.

ISSUE:

The issue is whether the claimant is overpaid unemployment 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 is eligible to receive unemployment insurance benefits and has not been overpaid benefits for the weeks between June 14, 2009 and July 18, 2009.

REASONING AND CONCLUSIONS OF LAW:

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.

As a result of a decision in the claimant's appeal on the disqualification it has been determined that the claimant was eligible to receive unemployment insurance benefits. The claimant has not been overpaid unemployment insurance benefits.

DECISION:

The decision of the representative dated September 25, 2009, reference 02, is reversed. The claimant has not been overpaid unemployment insurance benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css