

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRAIG L KUHSE
Claimant

APPEAL NO. 14A-UI-01323-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/22/13
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated February 3, 2014, reference 01, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$424.00 due to a data system transition error which caused the claimant to be paid unemployment insurance benefits that he was not entitled to receive. After due notice, a telephone hearing was scheduled for and held on February 25, 2014. The claimant participated.

ISSUE:

At issue in this matter is whether Kraig Kuhse has been overpaid job insurance benefits.

FINDINGS OF FACT:

The administrative law judge having considered all of the evidence in the record, finds: The overpayment issue in this case was created by an agency data system transition error which caused Mr. Kuhse to be paid unemployment insurance benefits in the amount of \$424.00 for the week ending January 11, 2014 that he was not entitled to receive. The overpayment was directly deposited into Mr. Kuhse's bank account and per the provisions of the law, applicable taxes were withheld. In addition to the appropriate taxes being withheld by the operation of law, an additional amount of approximately \$94.38 was also withheld from the direct deposit, because the claimant had directed and authorized that amount to be automatically withheld from deposits made into that banking account.

It is the claimant's position that he should not be required to repay the full \$424.00 overpayment of unemployment insurance benefits, but only should be liable to repay that amount less the deductions for tax withholding and child support payment that has been withheld when deposited into that banking account at Mr. Kuhse's direction.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 provides in pertinent part:

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. . . .

Because the claimant was not deemed eligible to receive the \$424.00 for the week ending January 11, 2014, the \$424.00 in benefits the claimant received constituted an overpayment. The unemployment insurance law provides benefits must be recovered from a claimant who received benefits and was later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault.

In this case Mr. Kuhse received benefits in the amount of \$424.00 for the week in question and is liable to repay that amount to the agency. Any taxes withheld by operation of law may be recovered or used as an offset by the claimant when the claimant files his federal and/or state tax returns. Similarly, the amount of the child support that had been deducted from the direct deposit by his direction to his banking institution may be recovered or reconciled by the claimant's proper application from the third party administrator who governs the claimant's child support payments.

DECISION:

The decision of the representative dated February 3, 2014, reference 01, is affirmed. The claimant is overpaid unemployment insurance benefits in the amount of \$424.00 for the week ending January 11, 2014 and is liable to repay that amount.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs