

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOUGLAS L COX**

Claimant

**APPEAL NO. 10A-UI-13473-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA DEPT OF TRANSPORTATION**

Employer

**OC: 03/21/10**

**Claimant: Appellant (2)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 21, 2010 (reference 01) decision that found the claimant overpaid benefits due to the receipt of back pay from Express Air Services for the week ending March 27, 2010. After due notice was issued, a telephone conference hearing was held on November 10, 2010. Claimant participated. Employer did not respond to the hearing notice instructions and did not participate.

**ISSUE:**

The issue is whether claimant is overpaid benefits as a result of back pay.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant took the five mandated unpaid days off (MUD) through the week ending March 27, 2010. He received no other form of compensation for the week and has never worked for Express Air Services.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code § 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.

Since claimant did not receive wages for the week ending March 27, 2010 and has never worked for Express Air Services, no overpayment applies.

**DECISION:**

The September 21, 2010 (reference 01) decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$73.00.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw