

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD W LARSON
Claimant

APPEAL NO: 11A-UI-02158-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/10/10
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 15, 2011 determination (reference 02) that held he had been overpaid \$374.00 in Emergency Unemployment Compensation benefits for the week ending January 15, 2011. The overpayment occurred as a result of a February 11 determination that held the claimant was not eligible to Emergency Unemployment Compensation benefits as of January 9, 2011, because he was instead eligible to receive regular unemployment insurance benefits. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge finds the claimant was overpaid \$374.00 in Emergency unemployment benefits for the week ending January 15, but the regular unemployment he was legally entitled to receive this week offset the overpayment so the claimant owes nothing.

ISSUE:

Was the claimant overpaid \$374.00 in Emergency Unemployment Compensation benefits for the week ending January 15, 2011?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of January 10, 2010. During the week of January 9, 2011, a representative helped the claimant complete paperwork to file a claim for the week ending January 8 and establish a new or subsequent claim year as of January 9, 2011. The claimant called in and filed a claim for the week ending January 15, 2011.

On January 14, the Department issued the claimant a check for benefits for the week ending January 8. On January 18; the Department issued him a check for benefits for the week ending January 15, 2011. Both weeks the claimant received his maximum weekly benefit amount of \$374.00. For the benefits the claimant received for the week ending January 15, 2011, the Department paid him Emergency Unemployment Compensation benefits because his benefit year ended on January 8, 2011.

It was not until a representative's February 11, 2011 determination was issued when the Department decided the claimant was eligible to receive regular unemployment insurance

benefits as of January 9, 2011, not Emergency Unemployment Insurance benefits. (See decision for appeal 11A-UI-02157-DWT.) The claimant's maximum weekly benefit amount in this new benefit year is \$376.00.

On February 17, 2011, the Department used regular unemployment insurance benefits the claimant was legally entitled to receive for the week ending January 15, 2011 to offset the funds he had receive from the Emergency Unemployment Compensation program. Since the Department had initially paid the claimant \$374.00 from the Emergency Unemployment Compensation funds, \$374.00 in regular unemployment insurance benefits was used to offset this amount and the Department paid the claimant the additional \$2.00 on February 17, 2011.

REASONING AND CONCLUSIONS OF LAW:

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7).

Based on the decision for appeal 11A-UI-02157-DWT, the claimant is not legally entitled to receive Emergency Unemployment Compensation benefits for the week ending January 15, 2011. Instead, he is eligible to receive regular unemployment insurance benefits for this week.

Since the claimant's benefit year for the claim he established during the week of January 10, 2010, ended on January 8, 2011, the Department initially paid the claimant benefits from the Emergency Unemployment Compensation program for the week ending January 15, 2011. The claimant is not at fault for receiving benefits under the wrong program. After the Department determined the claimant was eligible to receive regular unemployment insurance benefits as of January 9, 2011, the regular benefits the claimant was legally entitled to receive for the week ending January 15 was used to offset the amount of benefits he received from the Emergency Unemployment Compensation program. The end result, the claimant does **NOT** owe the Department any money for benefits he received for the week ending January 15, 2011, and the Department paid him an additional \$2.00 because his weekly benefit amount is \$376.00 as of January 9, 2011, instead of \$374.00.

DECISION:

The representative's February 15, 2011 determination (reference 02) is affirmed. The claimant was overpaid \$374.00 in Emergency Unemployment Compensation benefits for the weeks ending January 15, 2011 because he was not eligible to receive these benefits but was instead eligible to receive regular unemployment insurance benefits this week. The claimant is NOT at fault in receiving Emergency Unemployment Compensation benefits. Since the claimant was instead eligible to receive regular unemployment insurance benefits for the week ending January 15, 2011, these benefits have been used to offset the funds he received from the

Emergency Unemployment Compensation program. As of February 17, 2011, the claimant did not owe the Department any money.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css