

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANICE L CANNY**  
Claimant

**APPEAL NO. 12O-UI-10083-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/13/09**  
**Claimant: Appellant (1)**

871 IAC 25.16 - Income Tax Offset

**STATEMENT OF THE CASE:**

This matter is before the administrative law judge based on an Employment Appeal Board remand on Hearing Number 12B-UI-05048. The underlying decision from which Ms. Canny appealed is the April 16, 2012 reference 04, decision that a prior overpayment of unemployment insurance benefits would be withheld from her Iowa income tax refund. After due notice was issued, a new appeal hearing on the tax offset issue was held on September 24, 2012. Ms. Canny participated. Department Exhibits D-1 through D-3 were received into evidence.

**ISSUE:**

Whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to off-set or recover a prior overpayment of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Janice Canny filed a claim for unemployment insurance benefits that was effective September 13, 2009. On June 8, 2010, a Workforce Development representative entered a reference 03 decision that held Ms. Canny was overpaid benefits totaling \$940.00 for three weeks within the period beginning October 25, 2009 and ending December 12, 2009, due to receipt of vacation pay from International Business Machine. The decision was mailed to Ms. Canny's address of record with the agency at the time of the entry of the decision. The overpayment decision became a final agency decision when Ms. Canny did not file a timely appeal from the overpayment decision.

Thus, Ms. Canny has had a \$940.00 outstanding overpayment since June 2010. The tax offset decision Ms. Canny appeals from in this matter was not entered until April 16, 2012, almost two years after entry of the overpayment decision. In between those two milestones, Ms. Canny took no action to pay on the outstanding overpayment. At the time of the April 16, 2012 tax offset decision the outstanding balance on the overpayment remained \$940.00.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Administrative Code rule 871 IAC 25.16 provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(1) If the individual has made no attempt to repay the overpayment of benefits within the preceding six months, the individual's name and social security number are given to the department of revenue and finance.

(2) The department of revenue and finance notifies the department that an overpaid individual is owed a payment from the state. The department then notifies the overpaid individual of the potential offset against the individual's payment from the state.

(3) In the case of a joint or combined income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue and finance to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for split of the refund is not made timely, the entire income tax refund becomes subject to offset.

(4) Any appeal by the individual is limited to the validity of job service's authority to recoup the overpayment through offset.

Based on this rule and Iowa Code section 8A.504, the Agency has the authority to recoup the overpayment of benefits by offset against the claimant's Iowa state income tax refund. The outstanding overpayment was more than \$50.00, and no effort had been made to repay the overpayment within the last six months.

**DECISION:**

The April 16, 2012 reference 04, tax offset decision is affirmed. Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to recover the outstanding overpayment.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/pjs