

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARQUESE R STABLER**  
Claimant

**APPEAL NO. 13A-UI-09685-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/19/13**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment  
871 IAC 26.8(5) – Decision on the Record

**STATEMENT OF THE CASE:**

An appeal was filed from an unemployment insurance decision dated August 14, 2013, reference 03, that concluded claimant had been overpaid job insurance benefits in the amount of \$1,960.00 for ten weeks between May 19, 2013 and July 27, 2013 because the claimant was disqualified from benefits by decision of an administrative law judge dated August 2, 2013. A telephone hearing was scheduled for September 30, 2013. The claimant, the appellant herein, did not participate in the hearing. This decision is based upon the contents of the administrative file. Based upon the appellant's failure to participate in the hearing, the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

At issue in this matter is whether the decision previously entered should be affirmed.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The appellant failed to provide a telephone number at which the claimant could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

Marquese Stabler was disqualified from receiving unemployment insurance benefits by an administrative law judge's decision dated August 2, 2013. The claimant had received unemployment insurance benefits for ten weeks between May 19, 2013 and July 27, 2013. Based upon the administrative law judge's decision, claimant was determined to have been overpaid unemployment insurance benefits for those weeks as it was determined that the claimant's separation from employment was disqualifying.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

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. . . .

The administrative law judge has carefully reviewed the evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

The record shows the claimant has been overpaid unemployment insurance benefits in the amount of \$1,960.00 for ten weeks between May 19, 2013 and July 27, 2013. The claimant received those benefits but was subsequently disqualified for misconduct in connection with the work by an administrative law judge decision dated August 2, 2013. The benefits that the claimant previously received were held to be an overpayment because the claimant had been disqualified for that period by the administrative law judge's decision.

**DECISION:**

The unemployment insurance decision dated August 14, 2013, reference 03, is affirmed. The claimant is overpaid unemployment insurance benefits in the amount of \$1,960.00. The representative's decision remains in effect. The decision will become final unless an appeal is filed with the Employment Appeal Board within 15 days of the date of this decision.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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