

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI J STOUT
Claimant

APPEAL NO. 08A-UI-06384-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/27/08 R: 03
Claimant: Appellant (1)**

Iowa Code section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Lori Stout filed a timely appeal from the July 9, 2008, reference 05, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$324.00 for the two-week period ending May 24, 2008, as a result of a disqualification decision. After due notice was issued, a hearing was held on July 28, 2008. Ms. Stout participated in the hearing. The administrative law judge took official notice of the administrative file documents, the Agency's record of benefits disbursed to the claimant, and the Agency's record of amounts applied to reduce the overpayment. Exhibit A was received into evidence.

ISSUES:

Whether Ms. Stout was overpaid unemployment insurance benefits in the amount of \$324.00 for the two-week period ending May 24, 2008,

Whether some or all of the overpayment has been recovered.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lori Stout established a claim for unemployment insurance benefits that was effective April 27, 2008. At the time Ms. Stout established her claim for benefits, she requested that federal and state income taxes be withheld from her benefits. On May 21, 2008, Workforce Development disbursed \$265.00 in gross benefits to Ms. Stout for the benefit week that ended May 17, 2008. Ms. Stout received the pay warrant for \$225.25, which reflected deduction of the applicable taxes from the \$265.00 gross amount. On June 6, 2008, Workforce Development disbursed \$265.00 in gross benefits to Ms. Stout for the benefit week that ended May 24, 2008. Ms. Stout received the pay warrant for \$225.25, which reflected deduction of the applicable taxes from the \$265.00 gross amount. On June 11, Ms. Stout returned the \$225.25 pay warrant that had been issued on June 6, 2008. Workforce Development recorded that Ms. Stout had returned the check and entered a \$225.25 credit on Ms. Stout's Workforce Development account. However, Workforce Development had already taken steps to deduct and report the \$39.75 in taxes and did not credit that amount to Ms. Stout's Workforce Development. Ms. Stout would receive credit for the deducted amounts when she files her next federal and state income tax return.

On June 16, 2008, Ms. Stout notified Workforce Development that she had commenced receiving workers' compensation benefits for total temporary disability. On May 21, 2008, a workers' compensation insurance carrier issued Ms. Stout a check for \$323.88. The check represented \$72.03 in total temporary disability benefits for the period of May 16-17, 2008 and \$251.85 in total temporary disability benefits for the week of May 18-24, 2008.

On July 3, 2008, a Workforce Development representative redetermined Ms. Stout's unemployment insurance benefit eligibility for the two-week period of May 11-24, 2008, in light of the information Ms. Stout had provided about the total temporary disability benefits she had received. The total temporary disability benefits were deductible from Ms. Stout's unemployment insurance benefits on a dollar-per-dollar basis. The Workforce Development representative concluded that Ms. Stout had been overpaid \$72.00 in unemployment insurance benefits for the week ending May 17, 2008 because of the \$72.03 in total temporary disability benefits she had received for that week. The Workforce Development representative concluded Ms. Stout had been overpaid \$252.00 for the week ending May 24, 2008 because of the \$251.85 in total temporary disability benefits she had received for that week. The Workforce Development representative concluded that total overpayment amount was \$324.00. This overpayment amount did not reflect the pay warrant Ms. Stout had returned to Workforce Development on June 11. On July 7, 2008, a Workforce Development representative entered a reference 04 decision that indicated Ms. Stout's temporary total disability workers' compensation benefits were deductible from unemployment insurance benefits effective the week ending May 17, 2008. On July 9, 2008, the Workforce Development representative entered the reference 05 decision that indicated Ms. Stout was overpaid \$324.00 for the two weeks ending May 24, 2008.

Workforce Development's records concerning the overpayment indicate an original overpayment of \$324.00. The Agency's records indicate that the overpayment was reduced by \$225.25 in connection with Ms. Stout's return of the \$225.25 payment warrant. The Agency's records indicate that the original overpayment has been further reduced through \$13.00 off-sets the Agency had taken against benefits that would otherwise have been disbursed to Ms. Stout for the weeks that ended June 28, July 5, July 12 and July 19, 2008. The Agency's records indicate that the remaining balance on the overpayment is \$46.75.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Ms. Stout appealed the reference 05 overpayment decision, but did not appeal the reference 04 decision that her total temporary disability benefits were deductible from her unemployment

insurance benefits. The evidence in the record indicates that the Workforce Development representative(s) correctly calculated the overpayment amount for the weeks ending May 17 and May 24, 2008. The evidence also indicates that the overpayment has been largely recovered. The overpayment was recovered, in large part, when Ms. Stout returned the \$225.25 net amount disbursed to her for the week ending May 24, 2008. The remaining balance of the overpayment is \$46.75. The administrative law judge notes that Ms. Stout has at all relevant times acted in good faith and that the overpayment decision does not represent any conclusion that Ms. Stout has done anything inappropriate.

DECISION:

The July 9, 2008, reference 05, overpayment decision is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$324.00 for the two-week period ending May 24, 2008, due to the effect of workers' compensation benefits on her unemployment insurance benefit eligibility. The remaining balance of the overpayment yet to be recovered is \$46.75.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw