

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELLY A HELTON
Claimant

APPEAL NO. 11A-UI-10339-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/01/09
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Shelly A. Helton filed a timely appeal from an unemployment insurance decision dated July 18, 2011, reference 03, that ruled she had been overpaid \$2,610.00 for the ten weeks ending January 9, 2010. After due notice was issued, a telephone hearing was held August 26, 2011, with Ms. Helton participating.

ISSUE:

Has the claimant been overpaid?

FINDINGS OF FACT:

Shelly A. Helton received unemployment insurance benefits for the ten weeks ending January 9, 2010. An administrative law judge decision dated January 13, 2010, disqualified her for benefits. That decision was affirmed by the Employment Appeal Board on March 29, 2010. Ms. Helton did not file a petition for judicial review. The former employer, Villa Health Center, participated in the fact-finding process.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The law section set forth above requires that unemployment insurance benefits paid in error be repaid under certain circumstances. The evidence in this record establishes that the claimant received the benefits in question, that the Employment Appeal Board decision affirming the disqualification has been affirmed, and that the claimant's employer had participated in the fact-finding process. Since these requirements of the statute have been met, the benefits must be repaid.

DECISION:

The unemployment insurance decision dated July 18, 2011, reference 03, is affirmed. The claimant has been overpaid \$2,610.00 for the ten weeks ending January 9, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw