

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**LOUISE BRUCE**  
Claimant

**APPEAL NO: 19A-UI-02393-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/13/19**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Benefit Overpayment  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 26, 2019, reference 02, decision that determined she was overpaid benefits in the amount of \$934.00 for the two weeks ending January 26, 2019. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 4, 2019. The claimant participated in the hearing.

**ISSUE:**

The issues are whether the claimant's appeal is timely and whether she is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on February 26, 2019. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by March 8, 2019. The appeal was not filed until March 19, 2019, which is after the date noticed on the disqualification decision. The claimant left for Phoenix and Houston February 15, 2019, to visit her children and grandchildren and did not return until March 15, 2019. Under these circumstances, the administrative law judge must conclude the claimant's appeal is timely as she was out of state when the decision arrived and on the appeal due date and filed an appeal when she returned.

The overpayment issue in this case was created by a disqualification decision that has now been affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

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) (a) 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 concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$934.00 for the two weeks ending January 26, 2019, pursuant to Iowa Code section 96.3-7, as the disqualification decision that created the overpayment decision has now been affirmed.

**DECISION:**

The February 26, 2019, reference 02, decision is affirmed. The claimant's appeal is timely and she has been overpaid unemployment insurance benefits in the amount of \$934.00 for the two weeks ending January 26, 2019.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn