

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

RHONDA L CURRY  
8927 – 13<sup>TH</sup> ST  
BALDWIN IA 52207

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-05000-AT  
OC: 01-18-04 R: 04  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Rhonda L. Curry filed a timely appeal from an unemployment insurance decision dated April 29, 2004, reference 05, which ruled that she had been overpaid the gross amount of \$4,043.00 for the 13 weeks ending April 17, 2004 because of a decision dated April 27, 2004 which ruled that she was not able and available for work. After due notice was issued, a telephone hearing was held May 24, 2004 with Ms. Curry participating. This matter is considered on a consolidated record with 04A-UI-04999-AT.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Rhonda L. Curry received unemployment insurance benefits in the gross amount of \$4,043.00 for the 13 weeks ending April 17, 2004. In the decision in the companion case, the administrative law judge has ruled that Ms. Curry was not eligible for benefits during those weeks.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Curry must repay the benefits she received for the 13 weeks ending April 17, 2004. She must.

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.

The statute requires that unemployment insurance benefits paid in error be repaid to the Agency, even if the individual who has received the benefits is not at fault for the overpayment. The evidence here establishes the receipt of the benefits in question and an affirmance of the decision holding Ms. Curry ineligible to receive them. Therefore, they must be repaid.

DECISION:

The unemployment insurance decision dated April 29, 2004, reference 05, is affirmed. The claimant has been overpaid by \$4,043.00 for the 13 weeks ending April 17, 2004.

tjc/b