

**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**

**JOY E DEMEULENAERE  
5304 PINE GROVE  
CEDAR RAPIDS IA 52402**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-05087-AT  
OC: 01/14/01 R: 03  
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  
871 IAC 25.16 – Income Tax Refund Offset

STATEMENT OF THE CASE:

Joy E. DeMeulenaere filed a timely appeal from an unemployment insurance decision dated April 29, 2004, reference 01, which advised her of the Agency's intention to withhold all or a portion of her Iowa income tax refund to apply to a prior overpayment of unemployment insurance benefits. After due notice was issued, a telephone hearing was held on May 21, 2004 with Ms. DeMeulenaere participating. The administrative law judge takes official notice of Agency decision records, benefit payment records, and repayment records.

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: In August 2001, the Employment Appeal Board affirmed decisions by an administrative law judge and Agency fact finder which disqualified Joy E. DeMeulenaere for unemployment insurance benefits and established an overpayment of \$273.00. The decision was not reversed on judicial review. The overpayment was reduced to \$62.00 in July 2002 when the Agency withheld an earlier tax refund. Ms. DeMeulenaere has filed an Iowa income tax return for 2003 and is entitled to a refund of at least \$50.00. She has made no payment to Iowa Workforce Development since July 2002.

REASONING AND CONCLUSIONS OF LAW:

The question is whether it is appropriate for the Agency to withhold from Ms. DeMeulenaere's current Iowa income tax refund to offset her prior overpayment of unemployment insurance benefits. It is. Iowa Code Section 96.3-7 requires that unemployment insurance benefits paid in error be repaid to the Agency. The evidence establishes an original overpayment of \$273.00 now reduced to \$62.00.

The Iowa tax code allows Agencies such as Workforce Development to adopt rules whereby amounts owed by Revenue & Finance to individuals may be used to offset amounts owed by the individual to the state Agency. Iowa Workforce Development has adopted such rules at 871 IAC 25.16.

The rule provides that if an individual is owed at least \$50.00 by Revenue & Finance, owes Workforce Development at least \$50.00, and has made no payment to Workforce Development in the previous six months, the amount owed by Revenue & Finance, or so much thereof as is needed to completely offset the overpayment, may be set off and paid to Workforce Development to reduce or eliminate the amount owed to it. The evidence here establishes that Ms. DeMeulenaere owes the Agency \$62.00 and is owed more than \$50.00 by Revenue & Finance. It establishes that Ms. DeMeulenaere has made no payments to Workforce Development in the previous six months. Under these circumstances, it is legally appropriate for the Agency to withhold Ms. DeMeulenaere's Iowa income tax refund, or so much thereof as is necessary to eliminate the overpayment.

DECISION:

The unemployment insurance decision dated April 29, 2004, reference 01, is affirmed. The Agency may withhold the claimant's Iowa income tax refund, or so much thereof as is needed to offset her remaining overpayment of unemployment insurance benefits.

kjf/b