

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TROY L VAN HORN**  
Claimant

**APPEAL NO. 09A-UI-08455-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/02/08**  
**Claimant: Appellant (1)**

Iowa Code Section 96.3(7) - Overpayment

**STATEMENT OF THE CASE:**

Troy Van Horn filed an appeal from the June 9, 2009, reference 06, decision that he was overpaid \$650.00 in benefits for the three-week period of March 8, 2009 through March 28, 2009. After due notice was issued, a hearing was held by telephone conference call on June 29, 2009. Mr. Van Horn participated. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, wages reported by the claimant, and the Agency's record concerning the status/amount of the alleged overpayment. This matter was consolidated with the hearing in Appeal Number 09A-UI-08454-JTT and the administrative law judge hereby takes official notice of the decision entered in that matter.

**ISSUE:**

Whether Mr. Van Horn was overpaid \$650.00 in benefits for the three-week period of March 8, 2009 through March 28, 2009.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Troy Van Horn established an additional claim for benefits that was effective March 8, 2009. During the period of March 8, 2009 through March 28, 2009, Mr. Van Horn received regular benefits totaling \$575.00 and federal stimulus benefits totaling \$75.00. The total amount of benefits disbursed for the three-week period was \$650.00.

On April 9, 2009, a Workforce Development representative entered a reference 02 decision that disqualified Mr. Van Horn for unemployment insurance benefits in connection with a March 6, 2009 separation from Express Services, Inc. The reference 02 decision has been affirmed on appeal, based on an untimely appeal. See Appeal Number 09A-UI-08454-JTT. The overpayment decision cited the prior disqualification decision as basis for the overpayment decision.

**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.

Because the disqualification decision that prompted the overpayment decision has been affirmed on appeal, the administrative law judge concludes that Mr. Van Horn was overpaid \$650.00 in benefits for the three-week period of March 8, 2009 through March 28, 2009.

**DECISION:**

The Agency representative's June 9, 2009, reference 06, overpayment decision is affirmed. The claimant was overpaid \$650.00 in benefits for the three-week period of March 8, 2009 through March 28, 2009.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css