

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRYSTAL L SAND
Claimant

APPEAL 20A-UI-13679-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/05/20
Claimant: Appellant (1)**

Iowa Code § 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated October 28, 2020, reference 05, that concluded the claimant was overpaid unemployment insurance benefits as a result of a disqualification decision. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 10, 2020. The claimant participated personally. 20R-UI-11450, 20A-UI-13678, 20A-UI-13678, and 20A-UI-13678 were heard at the same time.

A decision was issued on November 18, 2020. That decision was vacated on December 1, 2020, due to a jurisdictional issue.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits with an effective date of January 5, 2020. Her weekly benefit amount was determined to be \$478.00. She filed an additional claim on June 14, 2020. The claimant received benefits from March 29, 2020, to the week ending May 23, 2020. This is a total of \$3,493.00 in state unemployment insurance benefits after the separation from employment. She also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the eight-week period ending May 23, 2020.

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

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, 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) (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 employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

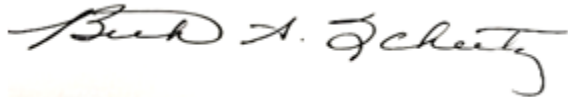
(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and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

(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 administrative law judge concludes that the claimant was overpaid unemployment insurance benefits pursuant to Iowa Code Section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed.

DECISION:

The decision of the representative dated October 28, 2020, reference 05, is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$3,493.00.



Beth A. Scheetz
Administrative Law Judge

December 10, 2020
Decision Dated and Mailed

bas/mh