

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE E NEUHAUS
Claimant

APPEAL NO. 11A-UI-12347-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/18/10
Claimant: Appellant (1-R)

Section 96.3-7 – Recovery of Overpayment
Section 96.4-4 – Benefit Requalification

STATEMENT OF THE CASE:

The claimant appealed from a department representative's decision dated September 7, 2011, reference 03, that held she was overpaid benefits \$1,662 for the six weeks ending August 28, 2010, due to a department September 3, 2010 decision, affirmed by an ALJ decision on October 28, 2010, that she voluntarily quit without good cause at Dillard's Inc on May 13, 2010. A hearing was held on October 12, 2011. The claimant participated.

ISSUE:

The issue is whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the witness testimony and having considered the evidence in the record, finds that: The department issued a decision dated September 3, 2010, reference 02, that held claimant voluntarily quit without good cause on May 13, 2010, and which denied benefits. The decision was affirmed by an ALJ decision on October 28. The department record shows claimant was either credited with benefits and/or paid benefits of \$1,662 through the week ending August 29, 2010.

After claimant separated from Dillard's, she went back to work for Copy Works (Electronic Print Inc), and she thought she earned sufficient wages to re-qualify for benefits. The department record shows \$2,166 for the third quarter, which does not include May/June 2010. The claimant was instructed to provide proof of earnings to the department to re-qualify.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the claimant is overpaid benefits in the amount of \$1,662, subject to re-qualification. There is no issue claimant received the benefits, but there is an issue regarding re-qualification by subsequent employment. The problem is the department waited almost one year to issue the overpayment decision. It did not consider whether claimant had re-qualifying wages prior to filing her July 18, 2010 unemployment claim.

DECISION:

The representative's decision dated September 7, 2011, reference 03, is affirmed, subject to remand to receiving claimant proof of re-qualifying earnings. The claimant is overpaid benefits in the amount of \$1,662, subject to re-qualification.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw