

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS M MAUDSLEY
Claimant

APPEAL NO. 10A-UI-05626-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/14/10
Claimant: Appellant (1)

Section 96.5-2-A – Misconduct
Section 96.3-7 – Overpayment of Benefits
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Claimant filed an appeal in connection with a claim for benefits with an original claim date of March 14, 2010. No representative's decision was issued. After due notice, this matter was set for hearing on June 4, 2010, by telephone conference call. The claimant participated. The claimant was represented by Alan Wilson, attorney at law. Official notice was taken of agency records, including an administrative law judge decision in 01A-UI-11834-S2T.

ISSUES:

Whether the claimant filed a timely appeal; and

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

On December 12, 2001, an administrative law judge decision was issued in Appeal Number 01A-UI-11834-S2T, which disqualified the claimant from receiving unemployment insurance benefits in an original claim for benefits of September 30, 2001, reference 03. The ALJ decision also held that the claimant had been overpaid benefits in the amount of \$2,830.00 since the filing of his claim and that those benefits constituted an overpayment that must be repaid. The claimant did not appeal this decision to the Employment Appeal Board and the ALJ decision became final.

On March 14, 2010, the claimant filed a new claim for unemployment insurance benefits. The overpayment of \$2,830.00 had not been recovered and the department offset the claimant's new claim for benefits in the amount of \$260.00 per week. At present the overpayment balance is \$1,530.00.

REASONING AND CONCLUSIONS OF LAW:

The claimant's argument in this case is that the department cannot recover the overpayment in the claim with the original claim date of September 30, 2001, because there is no evidence that employer participated in the original fact finding back in 2001. This argument fails because there has been an administrative law judge decision that determined the claimant had been overpaid the sum of \$2,830.00 and that those benefits must be repaid by the claimant. The claimant never took an appeal of that decision to the Employment Appeal Board and therefore the ALJ decision is the final decision. That decision was dated December 12, 2001, and any appeal is long past due.

Iowa Code section 96.3-7 gives the department discretion on recovering the amount of any overpayment, including the option of offsetting the overpayment against any future claim for benefits. There is no evidence that the department abused its discretion in recovering a prior overpayment by offsetting a current claim.

DECISION:

The agency action in recovering the overpayment in connection with an original claim of September 30, 2001 (reference 03) is affirmed.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css