

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ELIZABETH S ROLAND**  
Claimant

**APPEAL 17A-UI-05081-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 09/11/16  
Claimant: Appellant (1)**

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Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed the May 3, 2017, (reference 06), decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$241.00 as a result of an ineligibility decision issued on October 20, 2016. After due notice was issued, a telephone hearing was held on May 30, 2017. The claimant did participate.

**ISSUE:**

Has the claimant been overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by two ineligibility decisions issued on October 20, 2016 (reference 01) and October 25, 2016, (reference 02) that have now each become final. The reference 01 decision denied benefits effective October 16, 2016 due to claimant's failure to attend reemployment and eligibility assessment class. Reference 02 allowed benefits after the claimant attended the class, but only beginning on October 23, 2016. Neither decision allowed benefits for the week starting October 16, 2016 and ending October 22, 2016. The claimant did not appeal either reference 01 or 02 and those decisions have now become final.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 has been overpaid unemployment insurance benefits in the amount of \$241.00 pursuant to Iowa Code Section 96.3-7 as the ineligibility decisions that created the overpayment decision have now become final.

**DECISION:**

The May 3, 2017, (reference 6) decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$241.00.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/rvs