

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAVIS S ELMORE
Claimant

APPEAL NO. 08A-UI-01183-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/12/06 R: 04
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant appealed the January 25, 2008, reference 03, decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,415.00 for the five-week period ending February 17, 2008 as a result of a gross misconduct disqualification decision. A telephone hearing was held on February 27, 2008, pursuant to due notice. The claimant participated and was represented by Steven Hahn, Attorney at Law. Claimant's Exhibit A was received.

ISSUE:

The issue is whether claimant was overpaid 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 a gross misconduct disqualification decision that is not contested and the claimant's appeal of that decision has been withdrawn. Claimant did receive benefits in the amount of \$1,415.00, including payments of benefits toward a prior overpayment. Claimant filed bankruptcy in the United States Bankruptcy Court, Southern District of Iowa, on October 1, 2007, Case Number 07-03338. (Claimant's Exhibit A).

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

Iowa Code § 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 has been overpaid unemployment insurance benefits in the amount of \$1,415.00 pursuant to Iowa Code § 96.3(7) as the gross misconduct disqualification decision that created the overpayment decision is not contested and the appeal of that decision was withdrawn.

DECISION:

The January 25, 2008, reference 03, decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,415.00.

The issue of collection of the overpayment in relation to claimant's bankruptcy filing is left to Joseph Bervid, Attorney for Iowa Workforce Development, Unemployment Insurance Division.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css