

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ROBERT J DUVALL  
963 SPRING RIDGE ROAD  
IOWA CITY IA 52246

LYMAN RICHE CORPORATION  
4315 CUMING ST  
OMAHA NE 68131

Appeal Number: 04A-UI-02313-BT  
OC: 01/25/04 R: 03  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Robert Duvall (claimant) appealed an unemployment insurance decision dated February 23, 2004, reference 01, which held that he was overpaid \$38.00 in unemployment insurance benefits as a result of incorrectly reported wages from Lyman Riche Corporation (employer). Due notice was issued scheduling the matter for a telephone hearing to be held March 23, 2004. Because a decision fully favorable to the party could be made based on the evidence in the record, a hearing was deemed unnecessary.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now been reversed. The employer mistakenly reported the claimant received approximately \$113.00 for the week ending January 31, 2004 while the claimant reported he earned approximately \$71.00. Consequently, the claimant was found to have been overpaid in the amount of \$38.00 due to his incorrect reporting of wages received. The employer provided accurate information that now confirms the claimant was only paid approximately \$71.00 for the one-week period ending January 31, 2004.

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 has not been overpaid unemployment insurance benefits in the amount of \$38.00 pursuant to Iowa Code Section 96.3-7 as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The decision of the representative dated February 23, 2004, reference 01, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$38.00.

sdb/kjf