

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERESA R DUART**  
Claimant

**APPEAL NO: 07A-UI-03299-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/12/06 R: 04  
Claimant: Appellant (4)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Teresa R. Duart (claimant) appealed a representative's March 29, 2007 decision (reference 02) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 17, 2007. This appeal was consolidated for hearing with one related appeal, 07A-UI-03298-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision reversing the representative's decision.

**ISSUE:**

Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

A representative issued a decision dated March 28, 2007 (reference 01) that concluded the claimant was disqualified from receiving benefits after a separation from employment from MGV, Inc. (employer). The claimant timely appealed that decision and in the concurrently issued decision in appeal 07A-UI-03298-DT, that decision has been modified to remove a portion of the disqualification.

The overpayment decision was issued in this case as a result of the March 28, 2007 (reference 01) disqualification decision which disqualified the claimant from all benefits beginning the week ending March 3, 2007, which totaled \$1,275.00. As modified, the disqualification applies only to the two weeks ending March 10 and March 17, 2007; the benefits paid to her for those two weeks total \$720.00.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is overpaid benefits of \$1,275.00.

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 is not overpaid the entire amount of benefits paid to her beginning the week ending March 3, 2007 due to the disqualification decision issued on March 28, 2007 (reference 01), which has now been modified to limit the disqualification to only the two weeks ending March 10 and March 17, 2007. The amount of the overpayment is therefore reduced to \$720.00.

**DECISION:**

The representative's March 29, 2007 decision (reference 02) is modified in favor of the claimant. The claimant's benefit overpayment is reduced to \$720.00.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/pjs