

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOBBI J FINARTY
Claimant

APPEAL NO. 10A-UI-13940-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRILAND FS INC
Employer

OC: 03/28/10
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Bobbi Finarty, appealed a representative's decision dated October 1, 2010, reference 05, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$153.00 as a result of wages not being properly reported. A telephone hearing was scheduled for and held on November 22, 2010, pursuant to due notice. The claimant participated on her own behalf.

The employer provided a telephone number to the Appeals Section. That number was dialed at 8:02 a.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the employer's participation unless a representative contacted the Appeals Section at the toll-free number prior to the close of the record. By the time the record was closed at 8:12 a.m., the employer had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant is overpaid in unemployment benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, finds that: Bobbi Finarty filed a claim for unemployment benefits with an effective date of March 28, 2010, as a layoff for lack of work. She filed a weekly claim for benefits through July 24, 2010. During the weeks May 2 through 24, 2010, she worked some hours each week but reported zero wages on her weekly claim.

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 is overpaid unemployment insurance benefits in the amount of \$153.00 pursuant to Iowa Code section 96.3-7.

DECISION:

The representative's decision dated October 1, 2010, reference 05, is affirmed. The claimant is overpaid unemployment insurance benefits in the amount of \$153.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw