

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CARRIE WEIGEL
Claimant

IA DEPT OF HUMAN SVCS AREA COUN
Employer

APPEAL NO. 19A-UI-07922-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/06/16
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment of Benefits
Iowa Code § 96.3(8) – Back Pay

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated October 8, 2019, reference 02, that concluded claimant was overpaid unemployment insurance as a result of a disqualification decision. A hearing was scheduled and held on October 30, 2019 pursuant to due notice. Claimant did participate.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether claimant is overpaid unemployment insurance benefits?
Did the claimant receive back pay?

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant was separated from the employment in November, 2015. Claimant filed an unlawful discharge claim against employer. An Arbitrator issued a decision on March 20, 2018 which held that claimant's separation was not lawful, and she was awarded back pay. The parties entered into a back pay agreement on October 2, 2019. The employer agreed to reimburse part of the back pay to the department in the amount of \$4,785.00. That amount did not cover all the benefits claimant received. Claimant is overpaid \$3,846.00 for the Nine weeks ending January 7, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was overpaid unemployment insurance benefits due to the receipt of back pay. The outstanding overpayment not recovered is \$3,846.00.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7.

Iowa Code section 96.3(8) provides:

Back pay. If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the department shall not charge that amount to the employer's account under section 96.7.

In this case, the claimant received benefits for which she subsequently was deemed ineligible because of receiving back pay from the employer for the same period. Therefore, the administrative law judge concludes that the claimant was overpaid benefits in the amount of \$3,846.00 which is subject to recovery.

DECISION:

The October 8, 2019 (reference 02) decision is affirmed. Claimant is overpaid unemployment insurance benefits in the amount of \$3,846.00.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn