

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN A FIEBELKORN**  
Claimant

**APPEAL NO. 11A-EUCU-00562-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/01/09**  
**Claimant: Appellant (1)**

Section 96.3-7 - Overpayment of Benefits  
Section 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 31, 2011, reference 04, that concluded he was overpaid \$1,652.00 due to the receipt of a lump-sum pension payment. A telephone hearing was held on July 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Rhonda Fiebelkorn. No one participated in the hearing on behalf of the employer. Exhibit A-1 was admitted into evidence at the hearing. The claimant gave his permission for me to examine the Agency's records regarding the pension issue, since he and his wife could not recall all of the details about the pension. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant filed for unemployment insurance benefits effective November 1, 2009, after his separation from AMPC-Proliant. His weekly benefit amount was determined to be \$388.00. On November 9, 2009, AMPC-Proliant paid out a lump sum 401K pension payment of \$5,927.72, with \$4,007.25 of the payment based on employer contributions. In early December 2009, the claimant met with a workforce advisor, Judy Threan, and informed her about the receipt of the lump sum 401K pension payment and the employer's share. The claimant's average weekly wage during his high quarter of earnings was \$718.40. Threan divided the \$4,007.25 by \$718.40 to determine that the claimant was ineligible for benefits for approximately 5.58 weeks starting November 9. The claimant received benefits totaling \$1,652.00 from November 9 through December 5, 2009. He was denied benefits for the weeks ending December 12 and 19. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

**ISSUES:**

Was the claimant overpaid unemployment insurance benefits?

Was the appeal in this case filed timely?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 1, 2009. The claimant filed for and received a total of \$1,652.00 from November 9 through December 5, 2009.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 11A-EUCU-00561-SWT. The claimant did not appeal the overpayment decision sent to him on May 31, 2011, until June 21, 2011, which was after the deadline for appealing of June 10, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$1,652.00 in unemployment insurance benefits.

**DECISION:**

The unemployment insurance decision dated May 31, 2011, reference 04, is affirmed. The claimant was overpaid \$1,652.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw