

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL E TENDAL
Claimant

APPEAL NO. 13A-UI-07048-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/23/12
Claimant: Appellant (1)

Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

Paul Tendal filed a timely appeal from the June 7, 2013, reference 02, decision that he was overpaid \$1,188.00 for the three-week period of May 12, 2013 through June 1, 2013. After due notice was issued, a hearing was held on July 16, 2013. Mr. Tendal participated. The hearing in this matter was consolidated with the hearing in Appeal Number 13A-UI-07047-JTT. The administrative law judge took official notice of the agency's administrative record of benefits disbursed to the claimant. Exhibits A and C were received into the record.

ISSUE:

Whether the claimant was overpaid \$1,188.00 for the three-week period of May 12, 2013 through June 1, 2013.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant Paul Tendal established an additional claim for benefits that was effective May 12, 2013 and received \$1,188.00 for the three-week period of May 12, 2013 through June 1, 2013. On June 6, 2013, a Workforce Development representative entered a June 6, 2013, reference 01, decision that disqualified the claimant for benefits in connection with a voluntary quit without good cause attributable to the employer Polaris Industries Manufacturing. The disqualification decision has been affirmed on appeal in Appeal Number 13A-UI-07047-JTT.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.
 - a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Because Mr. Tendal received benefits for which he was later deemed ineligible and because the disqualification was affirmed on appeal, the \$1,188.00 in benefits he received for the period of May 12, 2013 through June 1, 2013 constitute an overpayment of benefits. Mr. Tendal must repay that amount to Iowa Workforce Development.

DECISION:

The agency representative's June 7, 2013, reference 02, decision is affirmed. The claimant was overpaid \$1,188.00 for the three-week period of May 12, 2013 through June 1, 2013. The claimant must repay that amount.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs