

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARLY A PRICE**  
Claimant

**APPEAL NO. 07A-UI-01746-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 01/07/07 R: 03**  
**Claimant: Respondent (2)**

Section 96.4-3 - Able to and Available for Work  
Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated February 12, 2007, reference 03, that concluded the claimant was working part-time when work was available and was eligible for unemployment insurance benefits. A telephone hearing was held on March 6, 2007. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Jerome Rinkin participated in the hearing on behalf of the employer.

**ISSUES:**

Was the claimant able to and available for work?  
Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant began working full time for the employer on August 29, 2006. She filed a new claim for unemployment insurance benefit with an effective date of January 7, 2007. The employer had not laid her off or reduced her hours. She was voluntarily on a leave of absence due to personal medical problems. The claimant returned to work full time for the employer starting February 5, 2007.

The claimant filed for and received a total of \$103.00 in unemployment insurance benefits for the week ending January 13, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The rules provides that when a claimant is on a leave of absence, they are considered voluntarily unemployed and not available for work. 871 IAC 24.23(10). Consequently, the claimant was not eligible to receive unemployment insurance benefits effective January 7, 2007.

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

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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$103.00 in benefits for the week ending January 13, 2007.

**DECISION:**

The unemployment insurance decision dated February 12, 2007, reference 03, is reversed. The claimant was not eligible to receive unemployment insurance benefits effective January 7, 2007. She was overpaid \$103.00 in benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs