

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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| <b>SALLY CHAL</b><br>Claimant<br><br><b>IOWA WORKFORCE<br/>DEVELOPMENT DEPARTMENT</b> | <div>68-0157 (9-06) - 3091078 - EI</div> <div><b>APPEAL NO. 09A-UI-14763-DT</b><br/><br/><b>ADMINISTRATIVE LAW JUDGE<br/>DECISION</b></div> <div><b>Original Claim: 05/17/09</b><br/><b>Claimant: Appellant (1)</b></div> |
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Section 96.3-7 - Recovery of Overpayment of Benefits  
Section 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

Sally Chal (claimant) appealed a representative's September 22, 2009 decision (reference 05) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on October 30, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Whether the claimant is overpaid unemployment insurance benefits of \$1,688.00.

**FINDINGS OF FACT:**

A representative issued a decision dated July 17, 2009 (reference 02) that concluded the claimant was disqualified from receiving benefits after a separation from employment from People 2.0 Global, Inc. (employer). The claimant did not appeal that decision, as she was obtained other employment and was pursuing schooling, and did not believe she would need further unemployment insurance benefits. While she disagreed with the decision, she failed to read the decision closely enough and did not focus on the first sentence of the decision, which said, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay."

The overpayment decision was issued in this case as a result of the July 17, 2009 (reference 02) disqualification decision.

The claimant established a claim for unemployment insurance benefits effective May 17, 2009. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$1,688.00, including \$1,538.00 in regular benefits and \$150.00 in economic stimulus benefits.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is overpaid benefits of \$1,688.00.

Iowa Code § 96.6-2 provides that unless the affected party (here, the claimant) files an appeal from the decision within ten calendar days, the decision is final and benefits shall be paid or denied as set out by the decision. The Iowa court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979).

The claimant did not timely appeal the decision that caused the overpayment in this case. If the claimant had a dispute with whether or not she should have been disqualified as a result of the separation from the employer, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification has now become final and is not subject to review in this case.

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. In this case, the claimant has received benefits but was ineligible for those benefits.

The administrative law judge concludes that the claimant is overpaid benefits of \$1,688.00 pursuant to Iowa Code § 96.3-7 due to the disqualification decision issued on July 17, 2009. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

## **DECISION:**

The representative's September 22, 2009 decision (reference 05) is affirmed. The claimant is overpaid benefits of \$1,688.00.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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