

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**NEIL B BARTELT
1800 GRAND AVE APT 363
WEST DES MOINES IA 50265-5068**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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ATTORNEY AT LAW
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2400 UNIVERSITY AVE
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**Appeal Number: 06A-UI-04621-RT
OC: 03/19/06 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Neil B. Bartelt, filed a timely appeal from an unemployment insurance decision dated April 25, 2006, reference 02, determining that the claimant was overpaid unemployment insurance benefits. After due notice was issued, a telephone hearing was held on May 16, 2006, with the claimant participating. This appeal was consolidated with appeal number 06A-UI-04620-RT, for the purposes of the hearing with the consent of the parties. The claimant was represented by Robert C. Oberbillig, Attorney at Law. Although no employer or respondent was noticed in this appeal, the employer in the appeal with which this appeal was consolidated, K R Jones Enterprises, Inc., doing business as Car-X Muffler & Brake participated in the hearing by Kevin R. Jones, Owner and President, and Jason Scott Johnson, Store Manager of the employer's store on Merle Hay Drive in Des Moines, Iowa. The administrative law judge

takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant. At 4:49 p.m. on May 9, 2006, the administrative law judge spoke to the claimant's wife about a continuance of the hearing. She wanted the hearing to be rescheduled for May 15 or 17, 2006. When the administrative law judge explained that he was already scheduled for those days she decided to leave the hearing as scheduled. The claimant and his attorney participated in the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits effective March 19, 2006 and began receiving benefits which continued thereafter. The claimant received unemployment insurance benefits in the amount of \$1,011.00 as follows: \$337.00 per week for three weeks from the benefit week ending April 1, 2006 to the benefit week ending April 15, 2006. For the benefit week ending March 25, 2006 the claimant did not receive any benefits reporting earnings in an amount sufficient to nullify benefits for that week. Thereafter the claimant is shown as being disqualified to receive unemployment insurance benefits. This amount, \$1,011.00, is now shown as overpaid and is the subject of this appeal. In a decision in appeal number 06A-UI-04620-RT, the administrative law judge concluded that the claimant was not entitled to receive such benefits because his separation from his employer, K R Jones Enterprises, Inc., doing business as Car-X Muffler & Brake, was disqualifying.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant is overpaid unemployment insurance benefits in the amount of \$1,011.00 for three weeks between March 26, 2006 and April 15, 2006. The administrative law judge concludes that the claimant is overpaid that amount for that period.

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.

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.

The administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,011.00 since separating from his employer, K R Jones Enterprises, Inc., doing business as Car X Muffler & Brake, on or about March 24, 2006 and filing for such benefits effective March 19, 2006. In appeal number 06A-UI-04620-RT, the administrative law judge concluded that the claimant was not entitled to receive such benefits because his separation from the employer was disqualifying. Accordingly, the administrative

law judge concludes that the claimant has received unemployment insurance benefits in amount of \$1,011.00 to which he is not entitled and he is, therefore, overpaid such benefits. The administrative law judge further concludes that these benefits must be recovered in accordance with provisions of Iowa law.

DECISION:

The representative's decision of April 25, 2006, reference 02, is affirmed. The claimant, Neil B. Bartelt, is overpaid unemployment insurance benefits in the amount of \$1,011.00 for three weeks between March 26, 2006 and April 15, 2006.

cs/pjs