

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELINDA K WAYT
Claimant

APPEAL NO: 13A-UI-07320-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/28/10
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 12, 2013 determination (reference 06) that held her overpaid \$575 in benefits she received between August 21, and September 24, 2011. The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is responsible for paying back to the Department the \$575 overpayment in benefits she received for the above weeks.

ISSUE:

Has the claimant been overpaid any benefits and is she required to pay back these benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of November 28, 2010. A fact-finding interview was held on September 9, 2011. Both the claimant and the employer participated at the fact-finding interview. On September 12, 2011, a determination (reference 04) was mailed to both parties. This determination held the claimant qualified to receive benefits because her August 19, 2011 employment separation occurred for nondisqualifying reasons.

The claimant filed claims for the weeks ending August 27 through September 24, 2011. She received a total of \$575 in benefits for these weeks.

The employer appealed the September 12, 2011 determination. A hearing was held before an administrative law judge. The claimant did not participate at the hearing, but the employer did. On October 28, 2011, an administrative law judge issued a decision that held the claimant was not qualified to receive benefits as of August 19, 2011. The claimant did not appeal the decision for 11A-UI-12290 to the Employment Appeal Board.

REASONING AND CONCLUSIONS OF LAW:

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. The overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3(7)b.

In this case, the initial determination held the claimant qualified to receive benefits. Later, an administrative law judge reversed the initial determination and held the claimant was not qualified to receive benefits. Based on the decision for 11A-UI-12290, the claimant has been overpaid \$575 in benefits she received between August 21 and September 24, 2011.

Even though the claimant is not at fault in receiving the overpayment, she is still required to pay back this amount to the Department because the employer participated at the fact-finding interview.

DECISION:

The representative's June 12, 2013 determination (reference 06) is affirmed. Based on the decision for appeal 11A-UI-12290, the claimant was not legally entitled to receive benefits as of August 19, 2011. She has been overpaid \$575 in benefits she received between August 21 and September 24, 2011. Even though she is not at fault in receiving the overpayment, the claimant is required to pay back the \$575 overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs