

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIAN MONTGOMERY
Claimant

APPEAL NO. 08A-UI-05387-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/17/08 R: 02
Claimant: Appellant (2)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed the June 2, 2008, reference 07, decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,098.00 for the four-week period ending May 3, 2008 as a result of an ineligibility decision. A telephone hearing was scheduled for and held on June 24, 2008, pursuant to due notice. The claimant participated.

ISSUE:

The issue is whether claimant was overpaid benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by the availability decision that has now been reversed.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code § 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 not been overpaid unemployment insurance benefits in the amount of \$1,098.00 pursuant to Iowa Code § 96.3(7), as the ineligibility decision that created the overpayment decision has now been reversed.

DECISION:

The June 2, 2008, reference 07, decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$1,098.00.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw