

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COREY J PINKS**  
Claimant

**APPEAL NO. 11A-UI-05487-A**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/26/09**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Corey J. Pinks filed a timely appeal from an unemployment insurance decision dated April 13, 2011, reference 04, that ruled he had been overpaid unemployment insurance benefits in the gross amount of \$6,936.55 for the 18 weeks ending November 28, 2009. Due notice was issued for a hearing to be held in Des Moines, Iowa, on May 23, 2011. The claimant did not respond to the hearing notice. This decision is based on information in Agency decision, fact-finding, and benefit payment records.

**ISSUE:**

Must the claimant repay the benefits he has received?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: Corey J. Pinks received unemployment insurance benefits in the gross amount of \$6,936.55 for the 18 weeks ending November 28, 2009. After a fact-finding interview in which both parties participated, Mr. Pinks was initially awarded benefits. The employer appealed. Decision 09A-UI-13772-E, issued on December 8, 2009, disqualified Mr. Pinks for benefits. That decision was affirmed by the Employment Appeal Board on February 10, 2010. The December 8, 2009 decision remanded the question of whether Mr. Pinks must repay the benefits he has received to the Unemployment Insurance Services Division.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.
  - a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The evidence in this record establishes that Mr. Pinks received the benefits in question, that his former employer participated in the fact-finding interview, and that the employer eventually prevailed on appeal. Under such circumstances, the statute requires that the benefits be repaid.

**DECISION:**

The unemployment insurance decision dated April 13, 2011, reference 04, is affirmed. The claimant must repay the benefits he received for the 18 weeks ending November 28, 2009.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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