

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CONNIE MCKIBBEN
Claimant

APPEAL NO: 13A-UI-07395-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/03/13
Claimant: Appellant (4)

Iowa Code § 96.3(7)b – Recovery of Overpayment/Waiver of Overpayment

STATEMENT OF THE CASE:

Connie McKibben (claimant) appealed an unemployment insurance decision dated June 13, 2013, reference 02, which held that she was overpaid \$2,664.00 in unemployment insurance benefits. Due notice was issued scheduling the matter for a telephone hearing to be held on July 29, 2013. Before a hearing could be held, the claimant pointed out that the repayment of the overpayment was waived in Appeal Number 13A-UI-03996-MT. Under these circumstances, no hearing is necessary since the overpayment issue had been previously adjudicated and that decision remains in effect.

ISSUE:

The issue is whether the recovery of the overpayment herein has been previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: On March 25, 2013, a decision was issued concerning the claimant's separation from the employer. The decision, reference 01, allowed benefits to the claimant. The employer appealed the decision and an administrative law judge determined the claimant was disqualified for benefits in a decision dated May 9, 2013 in Appeal Number 13A-UI-03996-MT. In that same decision, the administrative law judge found the claimant was overpaid unemployment insurance benefits but waived the recovery of those benefits based on the employer's lack of participation in the fact-finding interview. Iowa Workforce Development has no record of any further appeal having been filed.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the recovery of the claimant's overpayment has been previously adjudicated. There was, in fact, a decision issued on May 9, 2013, finding the claimant was disqualified and overpaid unemployment insurance benefits. That same decision waived the recovery of the overpayment. No appeal was filed and that decision has become final pursuant to Iowa Code § 96.6-2. The administrative law judge has no legal authority to re-adjudicate an otherwise final determination. Therefore, the overpayment is waived.

DECISION:

The unemployment insurance decision dated June 13, 2013, reference 02, is modified in favor of the appellant. The claimant was overpaid \$2,664.00 in unemployment insurance benefits but the recovery of that overpayment is waived. The party is bound by the previous adjudication.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs