

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOROTHY A STIMART
Claimant

APPEAL NO: 09A-UI-19207-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/13/09
Claimant: Appellant (1)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Dorothy A. Stimart (claimant) appealed a representative's December 17, 2009 decision (reference 02) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on February 3, 2010. The claimant participated in the hearing. This appeal was consolidated for hearing with one related appeal, 09A-UI-19206-DT. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision affirming the representative's decision that the claimant was overpaid unemployment insurance benefits.

ISSUE:

Was the claimant is overpaid unemployment insurance benefits of \$1,348.00.

FINDINGS OF FACT:

A representative issued a decision dated October 20, 2009 (reference 01) that concluded the claimant was disqualified from receiving benefits after a separation from employment from IOC Services L.L.C. (employer). The overpayment decision was issued in this case as a result of that disqualification decision. As determined in the concurrently issued decision in appeal 09A-UI-19206-DT, that disqualification decision has now been affirmed.

The claimant established a claim for unemployment insurance benefits effective September 13, 2009. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$1,348.00.

REASONING AND CONCLUSIONS OF LAW:

An underlying disqualification can result in an overpayment of unemployment insurance benefits.

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. Iowa Code § 96.3-7. In this case, because the decision causing the disqualification has now been affirmed, the claimant has received benefits but was ineligible for those benefits.

Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law; an error on the part of the Agency resulting in the payment or an error on the part of an Agency representative indicating that there would be an overpayment, or the delay in informing the claimant of the overpayment cannot preclude the recovery of those funds. Sievertsen v. EAB, 483 N.W.2d 818 (Iowa 1992).

The administrative law judge concludes that the claimant is overpaid benefits of \$1,348.00 pursuant to Iowa Code § 96.3-7. If the claimant is experiencing difficulties affecting her ability to repay the amount, she should respond to billing statements from the Agency by indicating she needs to set up a repayment schedule.

DECISION:

The representative's December 17, 2009 decision (reference 02) is affirmed. The claimant is overpaid benefits of \$1,348.00.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css