

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAMAY N SALLIS
Claimant

APPEAL NO. 12A-UI-06508-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/04/10
Claimant: Appellant (1)

Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated May 18, 2012, reference 05, which held that the claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 26, 2012. This case was heard in conjunction with 12A-UI-06507-VST.

ISSUE:

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for benefits with an original claim date of April 4, 2010. The claimant was paid benefits for six weeks between October 31, 2010 and January 22, 2011, in the total amount of \$2,740.63. The claimant was then disqualified from receiving benefits in a representative's decision dated January 27, 2011. The claimant did not file a timely appeal from the representative's decision.

The employer participated in the fact finding.

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 case established that the claimant was paid \$2,740.63 in unemployment insurance benefits to which she was not entitled. She was disqualified from receiving those benefits by the representative and a timely appeal was not filed with the Appeals Bureau. Those benefits must now be repaid.

DECISION:

The decision of the representative dated May 18, 2012, reference 05, is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$2,740.63. Those benefits must be repaid.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css