

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**DANA A DEMPSEY**  
Claimant

**APPEAL NO: 18A-UI-05152-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/01/18**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 1, 2018, reference 03, decision that determined he was overpaid benefits in the amount of \$1,365.00 for the three weeks ending April 21, 2018. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 23, 2018. The claimant participated in the hearing.

**ISSUE:**

The issue is whether the claimant is overpaid unemployment insurance 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 an able and available decision that determined the claimant was not able and available for work until April 29, 2018.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.3(7) provides, in pertinent part:

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) (a) 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 been overpaid unemployment insurance benefits in the amount of \$1,365.00 for the three weeks ending April 21, 2018, pursuant to Iowa Code section 96.3-7 because he was not able and available for work until April 29, 2018.

**DECISION:**

The May 1, 2018, reference 03, decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,365.00 for the three weeks ending April 21, 2018.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn