

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER L JACOBSEN
Claimant

APPEAL NO. 08A-UI-08543-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/03/08 R: 01
Claimant: Appellant (4)**

Iowa Code section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the September 23, 2008, reference 03, decision that he was overpaid \$350.00 in benefits for the two week period of August 31, 2008 through September 13, 2008. After due notice was issued, a hearing was held on October 23, 2008. Claimant participated personally and was represented by attorney Marcus Gross. The administrative law judge took official notice of the Agency's administrative record of wages reported by the claimant and benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 08A-UI-08542-JTT, and the administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether the claimant was overpaid \$350.00 in benefits for the two-week period of August 31, 2008 through September 13, 2008.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Roger Jacobsen established an "additional claim for benefits that was effective May 4, 2008 and reopened the claim effective July 13, 2008. For the two-week period of August 31, 2008 through September 13, 2008, Mr. Jacobsen received benefits totaling \$350.00. For the week ending September 6, Mr. Jacobsen received \$229.00. For the week that ended September 13, Mr. Jacobsen received \$121.00.

For the week that ended September 6, 2008, the employer only had two days of work for Mr. Jacobson. Mr. Jacobson reported \$117.00 in wages to Workforce Development and received \$229.00 in benefits.

For the week that ended September 13, 2008, Mr. Jacobson reported wages of \$225.00 and received \$121.00 and unemployment insurance benefits. During the week that ended September 13, Mr. Jacobson had worked 40 hours.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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 evidence indicates that during the week that ended September 6, 2008, the employer made only two days of work available to Mr. Jacobsen and that Mr. Jacobsen was partially unemployed. Mr. Jacobsen was eligible for the \$229.00 in benefits he received for the week that ended September 6, 2008, provided he was otherwise eligible.

The evidence indicates that for the week that ended September 13, 2008, Mr. Jacobsen was employed on a full-time basis. Because Mr. Jacobsen was working full-time, he did not meet the work availability requirements of Iowa Code section 97.4(3) and was not eligible for the \$121.00 in benefits he received for the week ending September 13, 2008. Because Mr. Jacobsen received benefits for which he was not eligible, the administrative law judge concludes that Mr. Jacobsen was overpaid \$121.00 for the week ending September 13, 2008. Mr. Jacobsen must repay that amount to Iowa Workforce Development.

DECISION:

The Agency representative's September 23, 2008, reference 03, decision is modified as follows. The claimant was eligible for the \$229.00 in benefits for the week that ended September 6, 2008. The claimant was not eligible for the \$121.00 in benefits he received for the week ending September 13, 2008. The claimant was overpaid \$121.00 for the week ending September 13, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw