

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GINGER L WOODHULL
Claimant

APPEAL NO. 18A-UI-11817-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/17/17
Claimant: Appellant (1R)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed the October 30, 2018, (reference 07) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$3,205.00 for the fourteen-week period ending September 22, 2018, as a result of a disqualification decision. A telephone hearing was held on December 26, 2018, pursuant to due notice. The claimant, Ginger Woodhull, participated. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid 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 a disqualification decision that has become final as the appeal was dismissed. (See 18A-UI-01137-B2-T) Claimant did receive benefits in the gross amount of \$3,205.00. Claimant explained that she worked full-time hours for Aramark and part-time hours for Shugar's Super Valu. Claimant stopped working full-time hours for Aramark in the summer of 2018 when the college went on break, and she was separated from Shugar's Super Valu in June 2018. Neither claimant's present ability to and availability for work nor her separation from Shugar's Super Valu have been the subject of fact-finding interviews with the agency.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question, pending the outcome of the fact-finding interviews related to her separation and her ability to and availability for work.

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 \$3,205.00, pursuant to Iowa Code § 96.3(7), as the disqualification decision that created the overpayment decision has become final.

As explained in the findings of fact above, neither claimant's present ability to and availability for work nor her separation from Shugar's Super Valu have been the subject of fact-finding interviews with the agency. This matter will be remanded to the Benefits Bureau for further investigation of those issues.

DECISION:

The October 30, 2018, (reference 07) decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the gross amount of \$3,205.00 to which she was not entitled and those benefits must be recovered in accordance with Iowa law.

REMAND:

The issues of (1) claimant's ability to and availability for work effective June 17, 2018 and (2) whether claimant's separation from Shugar's Super Valu is disqualifying are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn