

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY A SELKEN
Claimant

APPEAL NO. 08A-UI-04150-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/30/08 R: 04
Claimant: Appellant (2)**

Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated April 25, 2008, reference 02, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$337.00 as a result of a disqualification decision. A telephone hearing was scheduled and held on May 13, 2008, pursuant to due notice. The claimant did participate.

ISSUE:

At issue in this matter is whether Kimberly Selken has been overpaid job insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now been modified (See Appeal Number 08A-UI-04149-NT).

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 administrative law judge concludes that the claimant is not overpaid unemployment insurance benefits in the amount of \$337.00 pursuant to Iowa Code section 96.3(7), as the disqualification decision that created the overpayment decision has now been modified.

DECISION:

The decision of the representative dated April 25, 2008, reference 02, is reversed. The claimant is not overpaid unemployment insurance benefits in the amount of \$337.00. The issue of redetermining the claim with the remaining wage credits on the claim was addressed in the decision for 08A-UI-04149-NT.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/kjw