

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DONALD R WEYANT
Claimant

APPEAL 17A-UI-02170-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/14/16
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 17, 2017, (reference 06) unemployment insurance decision that found he was overpaid benefits in the amount of \$2235.00 for a five week period ending December 31, 2016. Following the issuance of due notice, a telephone hearing was held on March 20, 2017. The claimant participated and testified.

ISSUES:

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant sustained a work related injury. The claimant received TTD benefits beginning the week of November 30, 2016, though he did not receive his first payment until December 17, 2016. Claimant is still receiving TTD benefits. The claimant's weekly benefit amount (WBA) is \$447.00. Claimant was paid \$2235.00 in unemployment insurance benefits between November 26, 2016 and December 31, 2016. The unemployment insurance decision that determined the claimant's workers' compensation TTD benefit payments were deductible was affirmed in a decision of the administrative law judge in appeal 17A-UI-02169-NM-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was overpaid unemployment insurance benefits.

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.

Since the workers' compensation TTD payments were properly deducted from benefits, claimant received gross benefits of \$2235.00 for the five-week period ending December 31, 2016, to which he was not entitled. While claimant was not notified of the decision to award him TTD benefits until December 17, 2016, this does not negate the fact that he was overpaid unemployment insurance benefits until December 31, 2016. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The February 17, 2017, (reference 06), decision is affirmed. The claimant is overpaid benefits in the amount of \$2235.00 and is obligated to repay the agency those benefits.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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