

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTY M FIELD**  
Claimant

**APPEAL NO. 08A-UI-08592-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL KITCHEN SOLUTIONS INC**  
Employer

**OC: 06/08/08 R: 02**  
**Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Overpayment of Benefits

**STATEMENT OF THE CASE:**

Marty Field filed a timely appeal from the September 18, 2008, reference 02, decision that concluded he had been overpaid unemployment insurance benefits in the amount of \$131.00 for the week ending June 14, 2008. After due notice was issued, a hearing was held on October 9, 2008. Mr. Field participated in the hearing. The employer was notified of the hearing, but did not participate. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency administrative file documents that served as the basis for the September 18, 2008, reference 02 decision. 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.

**ISSUE:**

Whether the claimant was overpaid unemployment insurance benefits in the amount of \$131.00 for the week ending June 14, 2008.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Marty Field establish a claim for benefits that was effective June 8, 2008 and received benefits. For the week ending June 14, 2008, Mr. Field reported \$110.00 in wages and received \$323.00 in benefits. Mr. Field's actual wages for that week were \$240.95. Mr. Field underreported his weekly wages by \$131.00 and, thereby, received \$131.00 in unemployment insurance benefits for which he was not eligible.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3-7, as amended in 2008, provides:

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) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The weight of the evidence indicates that Mr. Field was in fact overpaid \$131.00 in benefits for week ending June 14, 2008. The weight of the evidence indicates that Mr. Field did in fact underreport his wages for that week. Mr. Field's testimony about his shift hours and days to which the wages should be applied was unpersuasive and was contradicted by the information the employer provided to Workforce Development.

**DECISION:**

The September 18, 2008, reference 02, decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$131.00 for the week ending June 14, 2008.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs