

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES D LUPTON**  
Claimant

**APPEAL NO. 09O-UI-03431-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Original Claim: 11/16/08  
Claimant: Appellant (4)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Claimant appealed a representative's decision dated January 21, 2009, reference 02, that concluded claimant was overpaid unemployment insurance benefits in the amount of \$3,135.00 as a result of a disqualification decision. A telephone hearing was scheduled for and held on March 30, 2009, pursuant to due notice. Claimant did participate. Exhibit One was admitted into the record.

**ISSUE:**

The issue is whether claimant is overpaid unemployment 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 affirmed. Claimant was found overpaid \$3,135.00 for the nine weeks between July 26, 2009 and January 10, 2009. Employer did participate at the fact-finding interview by letter and exit interview showing a voluntary quit.

Claimant received \$510.00 in unemployment benefits for the two consecutive weeks ending August 2, 2008. Claimant received \$2,625.00 in unemployment benefits for the period November 22, 2008 and Ending January 10, 2009.

Claimant earned ten times the weekly benefit amount after August 2, 2008 and prior to November 16, 2008 and has thereby re-qualified for benefits.

**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 administrative law judge concludes that claimant is not overpaid unemployment insurance benefits in the amount of \$3,135.00 for the nine weeks from July 26, 2008 and January 10, 2009, pursuant to Iowa Code section 96.3-7 as the claimant re-qualified for benefits effective November 16, 2008. The overpayment is limited to the period ending August 2, 2008 in the amount of \$510.00.

**DECISION:**

The decision of the representative dated January 21, 2009, reference 02, is modified. Claimant is overpaid unemployment insurance benefits in the amount of \$510.00 for the time period July 26, 2008 and August 2, 2008. Claimant re-qualified for benefits effective November 16, 2008.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw