

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

QUDSIA U WARDAK
Claimant

APPEAL NO. 13A-UI-05785-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/13/12
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated May 8, 2013, reference 02, that held she is overpaid benefits \$132.00 for the weeks ending May 19 and June 9, 2012 due to a July 19, 2012 administrative law judge decision that disqualified her as not being able and available for work. A hearing was held on June 27, 2013. The claimant, and her husband, Maqid, participated.

ISSUE:

The issue is whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds that: Claimant filed a unemployment insurance claim effective May 13, 2012. The department issued a decision dated June 13, 2012 reference 01 that allowed unemployment insurance benefits. An employer representative participated in department fact-finding and it filed an appeal.

An administrative law judge issued a July 19, 2012 decision (12A-UI-07576-HT) that denied claimant benefits for not being able and available for work the weeks ending May 19 and June 9, 2012 due to being out of the country. Claimant did not appeal the decision. The department record shows she received unemployment insurance benefits totaling \$132.00 for these weeks. Claimant reported vacation pay of \$156.00 for the week ending May 19 and received a partial benefit. She reported vacation pay of \$140.00 for the week ending June 9 and received a partial benefit of \$74.00.

The department record shows it has collected the \$132.00 overpayment by offset from a UI benefit procedure for the week ending May 25, 2013.

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 claimant is overpaid benefits \$132.00 due to a department July 19, 2012 administrative law judge decision that was not appealed and now has become final.

The administrative law judge disqualified claimant for separate weeks and she did not appeal. The claimant is overpaid \$132.00 unemployment insurance benefits due to the decision. The department has collected the overpayment by offset procedure. The overpayment is not subject to relief from repayment as the employer participated at department fact-finding.

DECISION:

The decision of the representative dated May 8, 2013, reference 02, is affirmed. The claimant is overpaid benefits \$132, but it has been repaid by department offset.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs