

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLAN T TUCKER
Claimant

APPEAL NO. 07A-UI-01457-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/17/06 R: 04
Claimant: Appellant (2)**

Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Allan Tucker filed a timely appeal from the February 2, 2007, reference 03, decision that that concluded he had been overpaid unemployment insurance benefits in the amount of \$147.00 as a result of a disqualification decision. After due notice was issued, a hearing was held on February 27, 2007. Mr. Tucker participated and presented additional testimony from his spouse, Celia Tucker. The administrative law judge took official notice of the Agency's record of payments to the claimant. The hearing was consolidated with the hearing in Appeal Number 07A-UI-01456-JTT, and the administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether the claimant has been overpaid benefits of \$147.00 for one week ending December 30, 2006.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a disqualification decision that has now been reversed. See Appeal Number 07A-UI-01456-JTT.

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 has not been overpaid unemployment insurance benefits in the amount of \$147.00 pursuant to Iowa Code section 96.3(7), as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The February 2, 2007, reference 03, decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$147.00.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw