

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ABDELSALAM I ALI**  
Claimant

**APPEAL NO. 13A-UI-05762-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/11/12  
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated May 6, 2013, reference 04, that held he is overpaid benefits \$3,122.00 for the 14 weeks ending February 16, 2013 due to a February 15, 2013 administrative law judge decision that disqualified him. A hearing was held on June 27, 2013. The claimant 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 November 11, 2012. The department issued a decision dated January 4, 2013 reference 01 that allowed claimant UI benefits by reason of his October 22, 2012 employment separation from Wal-Mart. An employer representative participated at department fact-finding and it filed an appeal.

An administrative law judge issued a February 15, 2013 decision (13A-UI-00512-NT) that reversed and disqualified the claimant. The department record shows claimant received unemployment insurance benefits totaling \$3,122.00 up to the disqualification. The administrative law judge remanded the overpayment issue for a decision.

Claimant appealed the administrative law judge decision to the Employment Appeal Board (EAB). The EAB affirmed the administrative law judge decision on April 15. There is no record of any further appeal.

**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 the claimant is overpaid benefits of \$3,122.00 due to an administrative law judge February 15, 2013 department decision that has been affirmed by the EAB.

Claimant received the unemployment insurance benefits before the administrative law judge disqualified him. His appeal was denied by the EAB, and there was no further appeal. The department record shows an employer representative participated in department fact-finding so there is no relief from the overpayment.

**DECISION:**

The decision of the representative dated May 6, 2013, reference 04, is affirmed. The claimant is overpaid benefits \$3,122.00

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Randy L. Stephenson  
Administrative law judge

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Decision Dated and Mailed

rls/pjs