

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CLINT D BAKER
Claimant

APPEAL NO. 12A-UI-10518-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/23/11
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated August 23, 2012, reference 03, that held he is overpaid benefits in the amount of \$2,256 for the six weeks ending March 5, 2011 due to a department decision he voluntarily quit employment with Michael Johnson Construction. A hearing was held on September 27, 2012. The claimant participated.

ISSUE:

The issue is whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The department issued a decision dated March 5, 2011 that disqualified the claimant and caused him to be overpaid benefits in the amount of \$2,256. The claimant had a prior overpayment of record, and the department used six weeks of benefits totaling \$2,256 to offset and repay the overpayment. The decision that caused the overpayment has been affirmed (Appeal No. 12A-UI-10517-ST). Since the department noted claimant had been disqualified when he filed a recent claim, it went back and rescinded the benefit offset procedure because claimant was not entitled to that action, due to his voluntary quit from Johnson Construction.

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 is overpaid benefits \$2,256 due to a department decision that has been affirmed. The department issued a decision that caused the overpayment on March 5, 2011 and that decision has been affirmed in Appeal No. 12A-UI-10517-ST.

Claimant did not actually receive the benefits because the department noted he had a prior overpayment. The department collected the six weeks of benefits totaling \$2,256 to offset and repay the old overpayment. The overpayment decision in this matter rescinds this action.

DECISION:

The representative's decision dated August 23, 2012, reference 03, is affirmed. The claimant is overpaid benefits in the amount of \$2,256.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw