

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JOSHUA L SEDAM
2210 – 260TH AVE #47
DEWITT IA 52742**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-00570-RT
OC: 12-28-03 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Joshua L. Sedam, filed a timely appeal in appeal number 04A-UI-13361-RT, from an unemployment insurance decision denying him unemployment insurance benefits. That appeal was also treated as an appeal of a decision dated January 20, 2005, reference 05, determining that the claimant was overpaid unemployment insurance benefits, which is this appeal, 05A-UI-00570-RT. Although there was no notice sent to the parties concerning this appeal or the issue it presents, an overpayment of unemployment insurance benefits, at the hearing for appeal number 04A-UI-13361-RT, which was held on January 20, 2005, after due notice to the parties, the parties permitted the administrative law judge to take evidence on and decide the overpayment issue. The parties waived further notice of that issue. This appeal then, is consolidated with appeal number 04A-UI-13361-RT for the purposes of the hearing with the consent of the parties. The claimant participated in the hearing on his own behalf and the employer, Seventh Avenue, Inc., participated by Jennifer Kallembach, Human Resources

Coordinator. Department Exhibit 1 was admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, including Department Exhibit 1, the administrative law judge finds: The claimant filed for unemployment insurance benefits effective December 28, 2003 and reopened his claim for unemployment insurance benefits effective June 27, 2004; October 17, 2004; and November 14, 2004. The claimant separated from the employer, Seventh Avenue, Inc., on November 2, 2004. Since separating from the employer herein the claimant has received unemployment insurance benefits in the amount of \$421.00 as follows: \$189.00 for benefit week ending November 6, 2004 (earnings \$101.00); and \$232.00 for benefit week ending November 13, 2004 (no earnings). This amount is now shown as overpaid and is the subject of this appeal. In appeal number 04A-UI-13361-RT, the administrative law judge concluded that the claimant was not entitled to receive such unemployment insurance benefits because his separation from the employer was disqualifying.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant is overpaid unemployment insurance benefits in the amount of \$421.00 for two weeks between October 31, 2004 and November 13, 2004. The administrative law judge concludes that the claimant is overpaid that amount for that period.

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 received unemployment insurance benefits in the amount of \$421.00 since separating from the employer, Seventh Avenue, Inc., on November 2, 2004. In appeal number 04A-UI-13361-RT, the administrative law judge concluded that the claimant was not entitled to receive such benefits because his separation from the employer was disqualifying. Accordingly, the administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$421.00 to which he is not entitled and he is, therefore, overpaid such benefits. The administrative law judge finally concludes that these benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision dated January 20, 2005, reference 05, is affirmed. The claimant, Joshua L. Sedam, is overpaid unemployment insurance benefits in the amount of \$421.00 for two weeks between October 31, 2004 and November 13, 2004.

b/b