

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY L MARTIN
Claimant

APPEAL NO. 07A-UI-04823-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/11/07 R: 02
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated May 8, 2007, reference 04, that concluded claimant was overpaid unemployment insurance benefits in the amount of \$105.00 as a result of a disqualification decision for failure to report income. A telephone hearing was scheduled and held on May 30, 2007, pursuant to due notice. Claimant did participate.

ISSUE:

The issue is whether claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a report of income that was received for a different week. Claimant received earned income of \$57.00 for the week ending April 21, 2007. Claimant improperly reported income for the following weeks along with that one day of income resulting in an overpayment. Claimant's weekly benefit amount is \$130.00.

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 claimant is not overpaid unemployment insurance benefits in the amount of \$105.00 pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision is in error. Claimant earned \$57.00 for the week in question. Claimant is entitled to earn 25 percent of the weekly benefit amount without penalty for a total of \$32.50. Claimant would have an offset of \$25.00 for the week ending April 21, 2007. Thus, claimant should have received \$105.00 exactly. No overpayment has been established.

DECISION:

The decision of the representative dated May 8, 2007, reference 04, is reversed. Claimant is not overpaid unemployment insurance benefits in the amount of \$105.00.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css