

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA D LOVE
Claimant

APPEAL NO: 07A-UI-03231-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRST HOSPITALITY GROUP
Employer

OC: 01/07/07 R: 02
Claimant: Appellant (2)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Debra D. Love (claimant) appealed the representative's March 21, 2007 decision (reference 04) that concluded she had been overpaid \$50.00 in benefits she received for the week ending January 20. This overpayment occurred as the result of a representative's March 9, 2007 decision. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 16, 2007. The claimant participated in the hearing. Connie Brown, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant been overpaid \$50.00 in benefits she received for the week ending January 20, 2007?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of January 7, 2007. The claimant filed a claim for benefits during the week ending January 20, 2007. The claimant reported she had earned gross wages of \$242.00. Based on her weekly maximum weekly benefit amount, the Department paid her \$50.00 in benefits.

During the week of January 14, 2007, the claimant worked as many hours as the employer had available for her to work. The employer's workload was down this week, which in turn meant less for the claimant to do. The claimant was available to work more hours this week.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code section 96.4-3. For unemployment insurance purposes the claimant must be considered partially unemployment during the week of January 14, 2007. The claimant is legally entitled to receive \$50.00 in benefits for this week.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant has not been overpaid \$50.00 in benefits for the week ending January 20, 2007.

DECISION:

The representative's March 21, 2007 decision (reference 04) is reversed. When a claimant's eligibility to receive benefits is based on whether she has excessive earnings or is working reduced hours, a decision disqualifying the claimant for one week cannot necessarily be used to disqualify a claimant in subsequent weeks. Since each week a claimant files a claim for benefits she must establish she is able to and available for work, an indefinite disqualification is not appropriate. This claimant is eligible to receive partial benefits for the week ending January 20, 2007. The claimant has not been overpaid \$50.00 in benefits for the week ending January 20, 2007.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs