

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIANNE LINDSKOG
Claimant

APPEAL NO. 09A-UI-05974-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/14/08
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Julianne Lindskog filed a timely appeal from an unemployment insurance decision dated April 7, 2009, reference 02, that ruled she had been overpaid \$985.00 in unemployment insurance benefits for the five weeks ending January 24, 2009. After due notice was issued, a telephone hearing was held May 28, 2009 with Ms. Lindskog participating. This matter is considered on a consolidated record with appeal number 09A-UI-05973-AT.

ISSUE:

Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Julianne Lindskog received unemployment insurance benefits in the gross amount of \$985.00 for the five weeks ending January 24, 2009. The earlier decision denying benefits to her has been affirmed by the administrative law judge's decision in the companion case. The benefits have been recovered through offset of unemployment insurance benefits payable in April 2009.

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.

Unemployment insurance benefits paid in error must be repaid even if the individual who has received the benefits has acted in good faith and is not at fault for the overpayment. The evidence in this record persuades the administrative law judge that Ms. Lindskog received benefits to which she was not entitled and that these benefits have now been recovered.

DECISION:

The unemployment insurance decision dated April 7, 2009, reference 02, is affirmed. The claimant was overpaid \$985.00 in unemployment insurance benefits for the five weeks ending January 24, 2009.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs