

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GAIL R FOSTER
Claimant

APPEAL NO. 11A-UI-16102-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/12/11
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Gail R. Foster filed a timely appeal from an unemployment insurance decision dated December 15, 2011, reference 03, that ruled he must repay unemployment insurance benefits in the amount of \$9,222.00 paid to him for the 49 weeks ending August 20, 2011. After due notice was issued, a telephone hearing was held January 19, 2012 with Mr. Foster participating. Exhibits One and D-1 were admitted into evidence.

ISSUE:

Must the claimant repay the benefits he has received?

FINDINGS OF FACT:

Gail R. Foster received unemployment insurance benefits for the 49 weeks ending August 20, 2011. A fact-finding decision had allowed benefits to Mr. Foster. Mr. Foster's former employer, Friendship Haven, Inc. did not participate in fact finding. An administrative law judge decision dated August 29, 2011 reversed the fact-finding decision and disqualified Mr. Foster from receiving further benefits. He has not appealed the administrative law judge's decision.

REASONING AND CONCLUSIONS OF LAW:

The question in this hearing is whether Mr. Foster must repay the benefits he has received. He need not do so.

Iowa Code section 96.3-7 requires that unemployment insurance benefits paid in error be repaid under certain circumstances. The law states than an individual need not repay benefits paid in error if the individual's former employer does not sufficiently participate in the fact-finding process. The administrative law judge concludes from the evidence in the record that Friendship Haven did not participate in the fact-finding interview and did not provide sufficient documentation to the agency at that level. Under these circumstances, Mr. Foster may keep the benefits that were paid to him.

DECISION:

The unemployment insurance decision dated December 15, 2011, reference 03, is reversed. The claimant need not repay the benefits he received for the 49 weeks ending August 20, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css