

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHELLEY A PORT**  
Claimant

**APPEAL NO. 09A-UI-07456-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/03/09**  
**Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Shelley A. Port filed a timely appeal from an unemployment insurance decision dated May 13, 2009, reference 02, that ruled she had been overpaid unemployment insurance benefits in the amount of \$434.00 for the week ending May 9, 2009. Due notice was issued for a telephone hearing to be held June 2, 2009. The hearing became unnecessary because of additional information provided by the Agency. This matter is considered on a consolidated record with appeal number 09A-UI-07455-AT.

**ISSUE:**

Has the claimant been overpaid?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: The fact-finding decision holding the claimant ineligible for unemployment insurance benefits for the week ending May 9, 2009 has been reversed by the administrative law judge's decision in the companion case.

**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.

Since the claimant was entitled to receive the benefits paid to her, she has not been overpaid.

**DECISION:**

The unemployment insurance decision dated May 13, 2009, reference 02, is reversed. The claimant has not been overpaid for the week ending May 9, 2009.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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