

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE L VILLASANA
Claimant

APPEAL NO. 08A-UI-06114-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/30/07 R: 02
Claimant: Appellant (2)**

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 1, 2008, reference 03, decision that found the claimant overpaid benefits. After due notice was issued, a hearing was scheduled to be held on July 21, 2008. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 04 representative's decision), no testimony was necessary and no hearing was held.

ISSUE:

The issue is whether the representative's decision should be affirmed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 04 representative's decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

Iowa Code § 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.

Since the decision appealed has been amended in favor of the appellant, the original representative's decision bearing reference 03 is reversed.

DECISION:

The July 1, 2008, reference 03, decision is reversed. Claimant has not been overpaid benefits for the two-week period ending June 14, 2008.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw