

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J VONNAHME
Claimant

APPEAL NO. 09A-UI-04223-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/14/08
Claimant: Appellant (2)

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Michael J. Vonnahme filed a timely appeal from an unemployment insurance decision dated March 10, 2009, reference 01, that ruled he had been overpaid unemployment insurance benefits in the amount of \$441.00 for the two weeks ending December 27, 2008 because of a redetermination of benefits dated January 13, 2009 that supposedly reduced his weekly or maximum benefit amount. After due notice was issued, a telephone hearing was held on March 27, 2009 with Mr. Vonnahme participating. Exhibits D-1 and D-2 were admitted into evidence.

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: On January 13, 2009, the Agency issued a corrected monetary determination which added three quarters of wage credits from the United States Postal Service to Michael J. Vonnahme's base period wages. The effect of this change was to increase his maximum benefit amount. His weekly benefit amount remained the same. Inadvertently, the Agency issued a decision telling Mr. Vonnahme that he had been overpaid by \$441.00. Because of the additional wage credits from the Postal Service, the Post Office was to be charged an additional \$441.00. The communication intended for Agency staff who handled charging of benefits was erroneously sent to Mr. Vonnahme.

In March 2009 the Agency withheld benefits in the amount of \$441.00 from Mr. Vonnahme to offset the erroneously established overpayment.

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.

The evidence in this record establishes that Mr. Vonnahme was paid appropriately for the two weeks ending December 27, 2008. There was no overpayment. The Agency shall reimburse Mr. Vonnahme the amount withheld in March 2009.

DECISION:

The unemployment insurance decision dated March 10, 2009, reference 01, is reversed. The claimant was not overpaid for the two weeks ending December 27, 2008. The Agency shall reimburse Mr. Vonnahme for the amounts withheld in March to offset the erroneous overpayment.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs