

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL BROWN
Claimant

APPEAL NO: 09A-UI-01623-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/07/07 R: 02
Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Benefit Overpayment
871 IAC 25.16 - Offset of State Income Tax Refund

STATEMENT OF THE CASE:

The claimant filed an appeal from a January 29, 2009, reference 02, decision, which notified her that a prior overpayment of unemployment insurance benefits was being withheld from her Iowa income tax refund. After due notice was issued, a hearing was held by telephone conference call on February 24, 2009. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to offset a prior outstanding overpayment of unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A decision was sent to the claimant which notified her that Iowa Workforce Development was asserting its authority to withhold her Iowa income tax refund to apply it to offset the outstanding overpayment of unemployment insurance benefits. The claimant has an outstanding overpayment of \$1,790.00 resulting from a decision dated March 20, 2007. The decision was upheld by the Employment Appeal Board and became final on April 25, 2007. The claimant has not made any attempt to repay the overpayment of benefits within the last six months. She filed a 2008 Iowa income tax return and was due a refund. The state treasurer notified Iowa Workforce Development that the claimant has an Iowa income tax refund for 2008 of at least \$50.00. The amount of the overpayment exceeds the amount of the Iowa income tax refund.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the withholding of the Iowa income tax refund to recover the prior overpayment is valid. The administrative law judge concludes that it is.

Iowa Code § 421.17(29) sets forth a procedure whereby one state agency may obtain funds owed by a second state agency to an individual to apply to a debt which that same individual owes to the first state agency. 871 IAC 25.16 specifically authorizes Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits which that same claimant owes to Iowa Workforce Development Department, provided both amounts are at least \$50.00. The claimant owes Iowa Workforce Development \$1,790.00 in benefits received to which she was not entitled and she has an Iowa income tax refund of at least \$50.00. Therefore, Iowa Workforce Development is legally authorized to withhold that Iowa income tax refund up to the amount of the overpayment of benefits which the claimant owes and has not paid.

DECISION:

The unemployment insurance decision dated January 29, 2009, reference 02, is affirmed. Iowa Workforce Development Department has authority to withhold the claimant's Iowa income tax refund to recover the outstanding overpayment of benefits.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css