

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER E OTT
Claimant

APPEAL NO: 13A-UI-13346-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/23/13
Claimant: Appellant (2)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 5, 2013, reference 06, that held she is overpaid unemployment (UI) benefits \$2,055 for a five-week period ending July 27, 2013, because she is disqualified by an Administrative law judge (ALJ) August 26, 2013 decision. A telephone hearing was held on December 26, 2013. The claimant participated.

ISSUE:

Whether claimant is overpaid unemployment benefits.

FINDINGS OF FACT:

The administrative law judge having heard the stipulation of the evidence in the record finds: The overpayment in this matter was the result of an ALJ August 26, 2013 decision. Claimant appealed. The Employment Appeal Board remanded the decision for a new hearing.

An ALJ issued a November 4, 2013 decision (13O-UI-11364-ST) that allowed claimant benefits on her June 5, 2013 employment separation and removed the previous ALJ disqualification. The employer did not appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 provides in pertinent part:

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. . . .

The administrative law judge concludes claimant is not overpaid unemployment benefits \$2,055. The final ALJ November 4, 2013 decision allows claimant the \$2,055 benefits she received. There is no overpayment.

DECISION:

The department decision dated September 5, 2013, reference 06, is reversed. The claimant is not overpaid benefits \$2,055.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs