

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL D MCKINEY**  
Claimant

**APPEAL NO. 17A-UI-09338-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 06/04/17**  
**Claimant: Appellant (5)**

Iowa Code Section 96.3(7) – Overpayment of Benefits

**STATEMENT OF THE CASE:**

Michael McKinney filed a timely appeal from the August 30, 2017, reference 04, decision that held he had been overpaid unemployment insurance benefits in the amount of \$4,290.00 for 10 weeks between June 11, 2017 and August 19, 2017, based on an earlier decision that purportedly disqualified him for benefits due to misconduct in connection with his employment at Enviro-Pest Solutions, L.L.C. In response to Mr. McKinney's appeal, an appeal hearing was set for 9:05 a.m. on September 28, 2017. Mr. McKinney was appropriately notified of the appeal hearing, but did not comply with the hearing notice instructions to register a telephone number where he could be reached in the hearing. Mr. McKinney's written appeal and available agency administrative records provide sufficient basis for entry of a decision in connection with the appeal and to correct an obvious error in the August 30, 2017, reference 04, decision. The administrative law judge hereby receives the two-page appeal into evidence as Exhibit A and takes official notice of the following agency administrative records: DBRO, the August 29, 2017, reference 01, decision, the August 29, 2017, reference 02, decision, and the administrative law judge default decision entered in Appeal Number 17A-UI-09337-JTT.

**ISSUES:**

Whether Mr. McKinney was overpaid unemployment insurance benefits in the amount of \$4,290.00 for 10 weeks between June 11, 2017 and August 19, 2017.

Whether the overpayment was based on an earlier decision that purportedly disqualified Mr. McKinney for benefits due to misconduct in connection with his employment at Enviro-Pest Solutions, L.L.C.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Michael McKinney established an unemployment insurance claim that was effective June 4, 2017. Mr. McKinney received \$4,290.00 in unemployment insurance benefits for 10-week period of June 11, 2017 through August 19, 2017.

On August 29, 2017, a Workforce Development claims deputy entered a reference 01 decision that allowed benefits to Mr. McKinney provided he was otherwise eligible, based on the claims deputy's conclusion that Mr. McKinney had been discharged from his employment with Enviro-Pest Solutions, L.L.C. on June 4, 2017 for no disqualifying reason.

On August 29, 2017, a Workforce Development claims deputy entered a reference 02 decision that denied benefits effective June 11, 2017, based on the claims deputy's conclusion that Mr. McKinney was unable to perform work due to surgery and, therefore, did not meet the availability requirement. The decision further indicated that the denial of benefits would continue until Mr. McKinney provided proof that he is able to work. The reference 02 decision contained a September 8, 2017 appeal deadline. Mr. McKinney's faxed appeal was transmitted and received on September 11, 2017. On September 28, 2017, the undersigned administrative law judge entered a default decision in Appeal Number 17A-UI-09337-JTT, based on Mr. McKinney's failure to appear for a consolidated hearing set for September 28, 2017. The default decision affirmed the August 29, 2017, reference 02, decision.

On August 30, 2017, a Workforce Development claims deputy entered the reference 04, overpayment decision from which Mr. McKinney appeals in the present matter. The reference 04 decision held that Mr. McKinney had been overpaid unemployment insurance benefits in the amount of \$4,290.00 for 10 weeks between June 11, 2017 and August 19, 2017. However, the reference 04 overpayment decision erroneously stated that the overpayment decision was based on an earlier decision that purportedly disqualified Mr. McKinney for benefits due to misconduct in connection with his employment at Enviro-Pest Solutions, L.L.C. The August 30, 2017, reference 04, overpayment decision had in fact been prompted by the August 29, 2017, reference 02, decision that denied benefits effective June 11, 2017, based on a conclusion that Mr. McKinney was unable to work and therefore did not meet the availability requirement.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits. The claims deputy erroneously referenced a disqualifying separation from employment as the trigger for the overpayment decision. The actual trigger for the overpayment decision was the August 29, 2017, reference 02, decision regarding Mr. McKinney's ability to work and availability for work. The August 29, 2017, reference 02, decision has been affirmed on appeal through the default decision entered in Appeal Number 17A-UI-09337-JTT. Because Mr. McKinney received \$4,290.00 for 10 weeks between June 11, 2017 and August 19, 2017, and because the August 29, 2017, reference 02, decision an administrative law judge decision in Appeal Number 17A-UI-09337-JTT held that he was ineligible for those benefits, the benefits Mr. McKinney received constitute an overpayment of benefits. Mr. McKinney must repay the benefits.

**DECISION:**

The August 30, 2017, reference 04, decision is modified as follows. The claimant was overpaid \$4,290.00 in benefits for 10 weeks between June 11, 2017 and August 19, 2017. The overpayment was based on the August 29, 2017, reference 02, decision that denied benefits effective June 11, 2017, based on a conclusion that the claimant was unable work and did not meet the availability requirements.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/rvs