

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW S RODDA
Claimant

APPEAL NO. 13A-UI-01285-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

OC: 05/13/12
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 24, 2013 (reference 05) decision that found the claimant overpaid benefits for the period from May 13, 2012 through June 2, 2012 based upon a July 12, 2012 separation decision (August 6, 2012, reference 02) involving this employer. After due notice was issued, a hearing was held by telephone conference call on March 5, 2013. Claimant participated. Employer participated through Sara Dean and was represented by Thomas Kuiper of Talx. Department's Exhibit D-1 was received.

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The \$625.00 overpayment issue in this case addressed the weeks of partial unemployment prior to the separation from Securitas on July 12, 2012. The Agency did not notify the employer of the claim for the period from May 13 through June 2, 2012, but the employer, via witness Sara Dean, opted not to protest the benefits paid for the three weeks ending June 2, 2012.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits.

Iowa Code § 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 administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$625.00 pursuant to Iowa Code § 96.3(7) as the employer has opted not to protest benefits paid for that period and no benefits were paid after the July 12, 2012 separation until claimant requalified for benefits with another employer.

DECISION:

The January 24, 2013 (reference 05) decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$625.00 for the three weeks ending June 2, 2012. The \$261.00 offset from the week ending January 12, 2013 shall be refunded to claimant.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs