

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN A FINN
Claimant

APPEAL NO. 120-EUCU-00030-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/28/09
Claimant: Appellant (4)

871 IAC 24.50(7) – Waiver of Overpayments

STATEMENT OF THE CASE:

Susan A. Finn filed an appeal from an unemployment insurance decision dated August 11, 2011, reference 03, that ruled she had been overpaid Emergency Unemployment Compensation benefits totaling \$5,987.00 for the 22 weeks between August 22, 2010 and January 8, 2011. After due notice was issued, a telephone hearing was held on November 2, 2011 with Ms. Finn participating. Administrative Law Judge decision 11A-EUCU-00057-HT issued on November 3, 2011 affirmed the overpayment. After an appeal by Ms. Finn, the Employment Appeal Board remanded the case on January 24, 2012 for consideration of whether the overpayment could be waived. After due notice was issued, a telephone hearing was held February 24, 2012 with Ms. Finn participating. The administrative law judge takes official notice of agency decision records and benefit payment records.

ISSUE:

Can all or a portion of this overpayment be waived?

FINDINGS OF FACT:

Susan A. Finn received Emergency Unemployment Compensation benefits totaling \$5,987.00 for the period August 22, 2010 through January 8, 2011. A fact-finding decision dated September 6, 2011 disqualified Ms. Finn from receiving benefits at all upon a finding that she had voluntarily left employment without good cause attributable to the employer on October 27, 2010. Ms. Finn should not have received either state or federal benefits for any week after October 21, 2010. Ms. Finn received Emergency Unemployment Compensation benefits totaling \$1,059.00 for the period August 22, 2010 through October 23, 2010.

The overpayment of benefits between August 22, 2010 and October 23, 2010 occurred because the agency did not realize that Ms. Finn was monetarily eligible for state unemployment insurance benefits as of July 4, 2010. Her weekly benefit amount on that claim was \$192.00. She would have received no benefits between August 22 and October 23, 2010 because her earnings during those weeks exceeded her weekly benefit amount plus \$15.00.

Ms. Finn is not at fault for this part of her total overpayment. Ms. Finn has no income at this time. Her husband is retired. The couple is still making a house payment. She is repaying the agency \$100.00 per month.

REASONING AND CONCLUSIONS OF LAW:

The question is whether all or a portion of Ms. Finn's overpayment of \$5,987.00 may be waived. To allow a waiver, the administrative law judge must find from the evidence that the overpayment was not the fault of the claimant and that it would be contrary to equity and good conscience to require the overpayment. See 871 IAC 24.50(7). The administrative law judge concludes that overpayment for weeks after October 23, 2010 cannot be waived because Ms. Finn was not eligible to receive unemployment insurance benefits, either state or federal, for those weeks. The administrative law judge concludes that the overpayment of \$1,059.00 for the period August 22 through October 23, 2010 is not the fault of the claimant. Given her health and economic circumstances, it would be contrary to equity and good conscience to require this portion of the overpayment to be waived.

DECISION:

The unemployment insurance decision dated August 11, 2011, reference 03, is modified. The claimant was overpaid by \$4,928.00.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs