

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENT R BOONE
Claimant

APPEAL NO. 13A-UI-05899-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/17/13
Claimant: Appellant (2)

Section 96.3-7 – Overpayment of Benefits
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated May 10, 2013, reference 02, which held that the claimant had been overpaid unemployment insurance benefits. After due notice, the case came on for hearing on August 12, 2013, in Davenport, Iowa. This case was heard in conjunction with 13A-UI-03954-VS.

ISSUE:

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for unemployment insurance benefits with an original claim date of February 17, 2013. The claimant was paid for three weeks of unemployment insurance benefits between February 17, 2013 and March 16, 2013, for a total of \$555.00. The claimant was disqualified by the department in a decision dated March 22, 2013, reference 01. That decision was reversed by the administrative law judge in 13A-UI-03954-VS.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 claimant has not been overpaid unemployment insurance benefits. The claimant's disqualification was reversed in 13A-UI-03954-VS.

DECISION:

The decision of the representative dated May 10, 2013, reference 02, is reversed. There has been no overpayment of unemployment insurance benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css