

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERVIN NIEVES
Claimant

APPEAL NO: 12A-UI-07306-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/20/12
Claimant: Appellant (2)**

Iowa Code § 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Ervin Nieves (claimant) appealed an unemployment insurance decision dated June 21, 2012, reference 02, which held that he was overpaid unemployment insurance benefits in the amount of \$783.00 as a result of a disqualification decision. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on July 18, 2012. The claimant participated in the hearing. Based on the evidence, the arguments of the party and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant was overpaid \$783.00 in unemployment insurance benefits for the three-week period ending June 9, 2012.

FINDINGS OF FACT:

The administrative law judge, having heard and considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now been reversed. The claimant did receive unemployment insurance benefits for the three-week period ending June 9, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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 that the claimant has not been overpaid unemployment insurance benefits in the amount of \$783.00 pursuant to Iowa Code § 96.3-7, as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The unemployment insurance decision dated June 21, 2012, reference 02, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$783.00.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw