

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY J LYONS**  
Claimant

**APPEAL NO. 09A-UI-07715-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Original Claim: 01/18/09  
Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Overpayment of Benefits  
Section 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

Timothy J. Lyons (claimant) appealed a representative's May 19, 2009 decision (reference 06) that concluded he had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 12, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant is overpaid unemployment insurance benefits of \$642.00?

**FINDINGS OF FACT:**

A representative issued a decision dated March 18, 2009 (reference 03) that concluded the claimant was disqualified from receiving benefits as of January 18, 2009, because of not being able and available for his usual hours. The claimant appealed that decision. A hearing before a different administrative law judge was held on that appeal on April 22, 2009. That administrative law judge issued a decision on that appeal on April 22 in 09A-UI-04937-AT, concluding that the disqualification decision was correct. The claimant did not timely appeal that decision to the Employment Appeal Board and it has now become final. The overpayment in this case was issued as a consequence of the conclusion the claimant was not eligible for the benefits he had received since January 18, due to the able and available determination.

The claimant established a claim for unemployment insurance benefits effective January 18, 2009. The claimant has received credit and payment of unemployment insurance benefits after January 18 in the amount of \$642.00.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is overpaid benefits of \$642.00.

As determined in the decision in appeal 09A-UI-04937-AT, the claimant was not eligible to receive benefits as of January 18, because he was not able and available for his regular hours. He did not timely appeal the decision in that case, which caused the overpayment in this case. If the claimant had a dispute with whether or not he should have been disqualified as a result of the hours he was available to work with the employer, then he needed to have filed an appeal from that decision with the Board within the appeal period for that decision. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification has now become final and is not subject to review in this case.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits.

The administrative law judge concludes that the claimant is overpaid benefits of \$642.00 pursuant to Iowa Code § 96.3-7, due to the disqualification decision issued on March 18, 2009 (reference 03), as affirmed in the administrative law judge's decision in 09A-UI-04937-AT. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's May 19, 2009 decision (reference 06) is affirmed. The claimant is overpaid benefits of \$642.00.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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