

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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AMENDED
Appeal Number: 04A-UI-02068-MT
OC: 08/17/03 R: 01
Claimant: Appellant (4R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated February 16, 2003, reference 07, that concluded claimant was overpaid unemployment insurance benefits in the amount of \$300.00 as a result of a disqualification decision 04A-UI-00509-CT. A telephone hearing was scheduled and held on March 16, 2004 pursuant to due notice. Claimant did participate and was represented by James Fitzsimmons, Attorney at Law. Exhibits One and Two were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having 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 affirmed. Appeal number 04A-UI-00509-CT found that claimant quit part-time work with Water Buffalos on December 1, 2003. Judge Coleman ordered that wage credits be deleted from the part time job with Water Buffalos and that claimant be allowed benefits if still eligible. This matter was recalculated but claimant's claim was not unlocked. The weekly benefit amount was reduced to \$248.00 from \$300.00 as a result of the decision. All weekly benefits were reduced retroactively back to the date of filing for benefits, August 31, 2003, resulting in overpayments. Claimant was denied benefits effective November 30, 2003 with a \$300.00 overpayment for that one-week period.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 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 claimant is overpaid unemployment insurance benefits in the amount of \$55.00 pursuant to Iowa Code Section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed without appeal. The order indicated that the claim shall be allowed if claimant is monetarily eligible after deletion of wage credits with Water Buffalos. Instead of allowing benefits at the lower rate of \$248.00, claimant was completely denied benefits, resulting in an overpayment of \$300.00. The order, 04A-UI-00509-CT, has not been effectuated. This matter is remanded to the claims section to unlock the claim and allow benefits in compliance with the appeal decision 04A-UI-00509-CT.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once

the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

DECISION:

The decision of the representative dated February 16, 2003, reference 07, is modified and remanded. Claimant is overpaid unemployment insurance benefits in the amount of \$55.00 for the week ending December 6, 2003. This matter is remanded to the Claims Section to comply with the appeal decision 04A-UI-00509-CT and unlock the claim.

mdm/b/b