

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CLAYTON L BOWLES
Claimant

APPEAL NO. 11A-UI-14874-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/24/10
Claimant: Appellant (1)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed the November 10, 2011 (reference 06), decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,790.00 for the five-week period ending May 15, 2010 as a result of a disqualification decision (reference 02). A hearing was held on December 12, 2011, pursuant to due notice. The claimant participated.

ISSUE:

The issue is whether claimant was overpaid benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a disqualification decision (reference 02) that has now been affirmed. Claimant did receive benefits in the amount of \$1,790.00 for the five weeks ending May 15, 2010. During the January 24, 2010 claim year, his claimant's weekly benefit amount (WBA) was \$333.00. Claimant was also paid EUC benefits of \$1,332.00 during that claim year for the four weeks between October 2 and October 29, 2011. The reference 04 decision in the 2010 claim year notified claimant he was not eligible for those benefits because he was eligible for a regular unemployment insurance benefits (UI) claim effective October 2, 2011. Claimant's WBA for the 2011 claim year increased to \$385.00. The agency offset \$1,332.00 (\$333.00 x 4) of benefits for the same four weeks in which he was already paid EUC benefits (reference 05) and applied the remaining increase in the WBA of \$52.00 (\$385.00 - \$333.00 = \$52.00; \$52.00 x 4 = \$208.00) of the WBA towards this overpayment of \$1,790.00. Then the agency applied the four weeks of benefits between November 5 and November 26, 2011 and \$42.00 of the WBA for the week ending December 3, 2011 to satisfy the remaining overpayment; leaving a gross payment of partial benefits in the amount of \$343.00. (\$385.00 x 4 = \$1,540.00 + \$42.00 = \$1,582 + \$208.00 = \$1,790.00.)

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

Iowa Code § 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 administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$1,790.00 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has now been affirmed.

DECISION:

The November 10, 2011 (reference 06) decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,790.00. That overpayment has been recovered by offset against benefits and has been satisfied in full as of the week ending December 3, 2011.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css