

**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**

**PHENG LOVAN
312 OSKALOOSA ST
PELLA IA 50219**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-10483-AT
OC: 12-28-03 R: 02
Claimant: Appellant (1)**

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:

Pheng Lovan filed a timely appeal from an unemployment insurance decision dated September 17, 2004, reference 02, which ruled that he had been overpaid by \$1,052.77 for five weeks between June 20, 2004 and July 24, 2004 because of a redetermination of benefits dated September 16, 2004 which was the result of an administrative law judge's decision. Due notice was issued for a telephone hearing to be held October 14, 2004. Mr. Lovan did not respond to the hearing notice.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Pheng Lovan received unemployment insurance benefits in the amount of \$1,052.77 for the five weeks between June 20 and July 24, 2004. His unemployment insurance benefits were redetermined as the result of an administrative law judge's decision, 04A-UI-04806-AT, which ruled that he was not unemployed as the result of a business closure. As of the date of the hearing, the prior administrative law judge decision had not been reversed by the Employment Appeal Board.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Lovan must repay the benefits in question. Unless or until the administrative law judge decision referred to in the findings of fact is reversed, he must. Iowa Code section 96.3-7 requires that unemployment insurance benefits paid in error be repaid to the Agency, even if the individual who has received those benefits is not at fault for the overpayment. The previous administrative law judge decision ruled that Mr. Lovan was not entitled to the additional unemployment insurance benefits available to individuals who are unemployed as the result of a business closure. Mr. Lovan had received additional benefits based on the business closure provision of the statute. Unless the administrative law judge's previous decision is reversed, Mr. Lovan has received benefits to which he is not entitled.

DECISION:

The unemployment insurance decision dated September 17, 2004, reference 02, is affirmed. The claimant has been overpaid by \$1,052.77.

tjc/tjc