

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER RIGEL
Claimant

APPEAL NO. 08A-UI-01418-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/21/06 R: 03
Claimant: Appellant (1)**

Iowa Code § 96.3-7 – Overpayment
871 IAC 25.16 – Offset of State Income Tax Refund

STATEMENT OF THE CASE:

Christopher Rigel (claimant) appealed an unemployment insurance decision dated January 31, 2008, reference 01, which concluded the claimant's prior overpayment of unemployment insurance benefits was being withheld from his Iowa income tax refund. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on February 26, 2008. 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 Agency has the authority to recover a prior overpayment of unemployment insurance benefits by an income tax offset against the claimant?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: A disqualification decision was issued to the claimant on June 22, 2006 which denied his unemployment insurance benefits as a result of his separation from Plumb Supply Company (employer). This decision resulted in an overpayment decision dated June 22, 2006 in the amount of \$593.00. The claimant did not appeal the decisions and they became final. The state treasurer notified Iowa Workforce Development Department that the claimant has an Iowa income tax refund for 2007 of at least \$50.00. The claimant has made no effort within the last six months to repay the overpayment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this appeal hearing is whether the Agency has the authority to recover a prior overpayment of unemployment insurance benefits by an income tax offset. The claimant did not appeal the decision that caused the overpayment in this case. If the claimant had a dispute with whether or not he should have been disqualified or been found overpaid, then he needed to have filed an appeal from those decisions within the appeal period for those decisions. The

decisions causing the disqualification and overpayment have now become final and are not subject to review in this case. Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979).

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.

871 IAC 25.16(3) provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(3) In the case of a joint income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue and finance to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for the split of the refund is not made timely, the entire income tax refund becomes subject to offset.

Iowa Code § 421.17(29) sets forth a procedure whereby one state agency may obtain funds owed by a second state agency to an individual to apply to a debt, which that same individual owes to the first state agency. 871 IAC 25.16 specifically authorizes Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits which that same claimant owes to Iowa Workforce Development Department so long as both amounts are at least \$50.00. The claimant owes Iowa Workforce Development Department \$593.00 in benefits he received in 2006 to which he was not entitled and he has an Iowa income tax refund of at least \$50.00. Therefore, Iowa Workforce Development Department is legally authorized to withhold his Iowa income tax refund up to the amount of the overpayment of benefits.

DECISION:

The unemployment insurance decision dated January 31, 2008, reference 01, is affirmed. The claimant's current Iowa income tax refund may be withheld to recover the prior overpayment of unemployment insurance benefits.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw