

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUSTIN MAKUS**

Claimant

**APPEAL NO: 17A-UI-08199-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/18/16**

**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Benefit Overpayment

Section 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant/appellant appealed from the July 21, 2017, reference 12, decision that determined he was overpaid benefits in the amount of \$3,150.00 for the ten weeks ending June 24, 2017. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 31, 2017. The claimant participated in the hearing. Department's Exhibit D-1 was admitted to the record.

**ISSUE:**

The issues are whether the claimant's appeal is timely and whether he is overpaid benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on July 21, 2017. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 31, 2017. The appeal was not filed until August 11, 2017, which is after the date noticed on the disqualification decision. The claimant was in jail from July 7 through August 6, 2017. Consequently, he did not have a reasonable opportunity to file his appeal in a timely manner. Therefore, the administrative law judge concludes the claimant's appeal is timely.

The overpayment issue in this case was created by a disqualification decision that has now been affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.3(7) provides, in pertinent part:

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) (a) 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 the claimant has been overpaid unemployment insurance benefits in the amount of \$3,150.00 for the ten weeks ending June 24, 2017, pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed.

**DECISION:**

The July 21, 2017, reference 12, decision is affirmed. The claimant's appeal is timely. The claimant has been overpaid unemployment insurance benefits in the amount of \$3,150.00 for the ten weeks ending June 24, 2017.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn