

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM W MAUCH**  
Claimant

**APPEAL NO. 10A-UI-09778-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/17/09  
Claimant: Appellant (4)**

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated June 25, 2010, reference 02, that held he was overpaid benefits \$579.00 for the two weeks ending September 5, 2009, for failing to report wages earned with Rocky Brands Retail LLC. A hearing was scheduled for August 28, 2010. The claimant did not participate.

**ISSUES:**

The issue is whether the claimant is overpaid benefits.

A further issue is whether the overpayment is due to misrepresentation.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds that: The department conducted an audit of the claimant's claim effective May 17, 2009. Rocky Brands Retail reported the claimant worked 16 hours the week ending August 29, 2009, and earned gross wages of \$262.00. The employer reported the claimant worked 40 hours and earned gross wages of \$654.00 for the week ending September 5. Based on the employer-reported wages, the claimant was entitled to a benefit of \$224.00 for the first week and no benefit for the second week.

The claimant reported no wages for the two weeks ending September 5, because he did not receive payment until September 15. The law is that wages are to be reported when earned, not received. The claimant received \$165.00 more for the week ending August 29 and \$389.00 more for the second week than what he was entitled to for unemployment benefits.

The claimant failed to respond to the department audit notice and the hearing notice.

**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 the claimant is overpaid benefits \$579.00 for the two weeks ending September 5, 2009, but it is not due to misrepresentation.

The claimant made a good-faith error of reporting his wages when received rather than earned that is the requirement of the Iowa Employment Security law.

**DECISION:**

The representative's decision dated June 25, 2010, reference 02, is modified. The claimant is overpaid benefits \$579.00, but it is not due to misrepresentation.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw