

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA S BEASLEY
Claimant

APPEAL NO. 12A-UI-12006-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/19/12
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 –Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated October 1, 2012, reference 02, which held that the claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 1, 2012. The claimant participated personally. This case was heard in conjunction with 12A-UI-12005-VST.

ISSUE:

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established a claim for unemployment insurance benefits with an original claim date of August 19, 2012. This claim was established after her seasonal employment with a greenhouse ended. The claimant was originally paid benefits for the five weeks between August 19, 2012, and September 22, 2012. The claimant was then disqualified from receiving benefits as a result of her employment with Family Video Movie Club, another base period employer. That disqualification has been reversed by the administrative law judge in 12A-UI-12005-VST. There is no overpayment of benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

There is no overpayment of benefits in this case. The disqualification upon which that overpayment was based has been reversed by the administrative law judge in 12A-UI-12005-VST. The overpayment shall be removed from the claimant's records.

DECISION:

The representative's decision dated October 1, 2012, reference 02, is reversed. The claimant has not been overpaid unemployment insurance benefits. The division shall take all necessary steps to remove the overpayment from the claimant's record.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw