

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT J SUDA**  
Claimant

**APPEAL NO. 09A-UI-03475-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/06/08 R: 03**  
**Claimant: Appellant (2-R)**

Iowa Code section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

Robert Suda filed a timely appeal from the March 5, 2009, reference 10, decision that he was overpaid \$312.00 in benefits for the two-week period of February 8, 2009 through February 21, 2009. After due notice was issued, a hearing was held on March 27, 2009. Mr. Suda participated. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 09A-UI-03474-JTT, and the administrative law judge hereby takes official notice of the decision entered in that matter.

**ISSUE:**

Whether the claimant was overpaid \$312.00 in benefits for the two-week period of February 8, 2009 through February 21, 2009.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Robert Suda received \$312.00 in benefits for the two-week period of February 8, 2009 through February 21, 2009, subsequent to his February 4, 2009, voluntary quit from Corkery Industries for good cause attributable to the employer. See Appeal Number 09A-UI-03474-JTT. On March 3, 2009, a Workforce Development representative entered a reference 08 decision that concluded Mr. Suda's voluntary quit had been without good cause attributable to the employer. The reference 08 disqualification decision prompted the overpayment decision that is on appeal in this matter. The reference 08 decision has been reversed on appeal. See Appeal Number 09A-UI-03474-JTT.

**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.

Because the March 3, 2009, reference 08, disqualification decision has been reversed on appeal, the administrative law judge concludes that the claimant was not overpaid \$312.00 in benefits for the two-week period of February 8, 2009 through February 21, 2009. Mr. Suda was eligible for the benefits he received for the period of February 8 through February 21, 2009, provided he was otherwise eligible.

The evidence presented at the hearing about Mr. Suda's January 5-February 4, 2009 employment with Corkery Industries, coupled with Agency records that indicate Mr. Suda reported no wages for this period, calls into question whether Mr. Suda was eligible for the benefits he received during the period of January 5-February 4, 2009. This matter will be remanded to the Claims Division for investigation into and redetermination of Mr. Suda's benefit eligibility for the period of January 5-February 4, 2009.

**DECISION:**

The Agency representative's March 5, 2009, reference 10, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

This matter is remanded to the Claims Division for investigation into and redetermination of Mr. Suda's benefit eligibility for the period of January 5-February 4, 2009, in light of the wages he earned from employment with Corkery Industries but did not report to Workforce Development.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw