

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAVIS L ASTELLE
Claimant

APPEAL NO. 11A-UI-11552-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/22/09
Claimant: Appellant (2)

Section 96.3-7 – Repayment of Benefits

STATEMENT OF THE CASE:

Travis L. Astelle filed a timely appeal from an unemployment insurance decision dated August 22, 2011, reference 03, that ruled he must repay \$3,136.00 in unemployment insurance benefits for the 14 weeks ending January 8, 2011. After due notice was issued, a telephone hearing was held September 28, 2011 with Mr. Astelle participating. Brian Astelle participated on his behalf.

ISSUE:

Must the claimant repay the benefits in question?

FINDINGS OF FACT:

Travis L. Astelle received unemployment insurance benefits in the amount of \$3,136.00 for the 14 weeks ending January 8, 2011 after being allowed benefits in the fact-finding interview. The interviewer tried unsuccessfully to reach the employer, Jeld-Wen for the interview. The employer filed an appeal from the fact-finding decision. An administrative law judge ruled in favor of the employer in a decision dated January 13, 2011. That decision has been affirmed by the Employment Appeal Board.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 requires that unemployment insurance benefits paid in error be repaid to the agency, even if the individual who received the benefits is not at fault for the overpayment. The statute provides a limited exception to the general rule. If the claimant is awarded benefits at the fact-finding level after the employer has not participated in fact finding, the individual need not repay the benefits, even if an administrative law judge eventually reverses the fact-finding decision. The evidence in this record is that the employer did not participate in fact finding. Therefore, the benefits need not be repaid.

DECISION:

The unemployment insurance decision dated August 22, 2011, reference 03, is reversed. The claimant is not required to repay the benefits he received for the 14 weeks ending January 8, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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