

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES J LEE
Claimant

APPEAL NO. 13A-UI-02439-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/03/11
Claimant: Appellant (4)

Section 96.3-7 – Recovery of Benefit Overpayment
871 IAC 25.16 – Offset of State Income Tax Refund

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated February 21, 2013, reference 03, that concluded the 2013 Iowa income tax refund was going to be withheld to apply to an overpayment of unemployment insurance benefits which the claimant owed to Iowa Workforce Development. A telephone hearing was scheduled for March 27, 2013 pursuant to due notice.

ISSUE:

The issue is whether the withholding of the Iowa income tax refund to recover the prior overpayment is valid.

FINDINGS OF FACT:

Having reviewed the administrative record, the administrative law judge finds: The agency issued reference 05 decision which garnished gambling winnings. That garnishment recovered the overpayment. No overpayment exists for which the tax refund may be garnished.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the withholding of the Iowa income tax refund to recover the prior overpayment is valid. The administrative law judge concludes that it is.

Iowa Code section 421.17(29) sets forth a procedure whereby one state agency may obtain funds owed by a second state agency to an individual to apply to a debt which that same individual owes to the first state agency. 871 IAC 25.16 specifically authorizes the Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits that the same claimant owes to the Iowa Workforce Development Department so long as both amounts are at least \$50.00.

The claimant does not owe the Iowa Workforce Development Department because the overpayment has been satisfied by gambling winnings. Therefore, the Iowa Workforce

Development Department is not legally authorized to withhold that Iowa income tax refund. The issue is moot.

DECISION:

The representative's decision dated February 21, 2013 reference 03, is modified and held moot. The Iowa Workforce Development Department shall not withhold the Iowa income tax refund owed to the claimant to apply to the overpayment of benefits that the claimant owes to the Iowa Workforce Development Department because the overpayment has been recovered.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css