

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES D PLATT**  
Claimant

**APPEAL NO. 11A-UI-06033-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/01/11  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated April 27, 2011, reference 06, which held claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 24, 2011. Claimant failed to respond to the hearing notice and did not participate. The record consists of agency records. This case was heard in conjunction with 11A-UI-06032-VST.

**ISSUE:**

Whether the claimant has been overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

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

The claimant was paid \$445.00 in unemployment insurance benefits for two weeks between November 8, 2009, and November 14, 2009. The claimant was later disqualified from receiving those benefits in a decision dated December 7, 2009 (reference 05). The disqualification was affirmed by the administrative law judge in 11A-UI-06032-VST.

The employer participated in the fact finding process.

**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.

The claimant was paid \$445.00 in unemployment insurance benefits for two weeks between November 8, 2009, and November 14, 2009. Because he was not entitled to receive those benefits, the benefits must be repaid.

**DECISION:**

The decision of the representative dated April 27, 2011, reference 06, is affirmed. The claimant must repay the sum of \$445.00 in unemployment insurance benefits.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/css