

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN B HANSON

Claimant

APPEAL NO. 14A-UI-04769-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/03/13

Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

Alan Hanson filed a timely appeal from a representative's decision dated April 28, 2014, reference 05, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$828.00 as the result of a disqualification decision. After due notice was provided, a telephone hearing was scheduled for and held on May 28, 2014. Mr. Hanson participated.

ISSUE:

At issue in this matter is whether Alan Hanson has been overpaid job insurance benefits.

FINDINGS OF FACT:

The administrative law judge having considered all of the evidence in the record, finds: The overpayment issue in this case was created by a disqualification decision that has now been affirmed (See appeal number #14A-UI-04768-NT).

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

In this case Mr. Hanson had attempted on numerous occasions to alert agency representatives that there might be an issue about his medical condition that may have prevented him from receiving unemployment insurance benefits. Although the claimant had brought this issue to the attention of the agency, Mr. Hanson received unemployment insurance benefits for four weeks between December 8, 2013 and January 4, 2014. Subsequently, the claimant was determined by the agency not to be able to work because of his medical condition and determined to have not met the availability requirements of the law and benefits were denied as of December 8, 2013 causing Mr. Hanson to be overpaid unemployment insurance benefits in the amount of \$828.00 for the four weeks. Subsequently, a decision was made by the agency on January 10, 2014 that the claimant did not meet the availability requirements of the law as he was not able to work and benefits were denied as of December 8, 2013. That decision was not timely appealed and became final by operation of law. Because the claimant was determined not to meet the availability requirements of the law, benefits were paid to which he was not entitled. The unemployment insurance law provides that benefits must be recovered from a claimant who received benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault.

In this case the claimant has received benefits but was not eligible for those benefits. Although sympathetic to the claimant's situation, the administrative law judge concludes that the claimant received benefits that he was not entitled to and, therefore, must repay those benefits.

DECISION:

The decision of the representative dated April 28, 2014, reference 05, is affirmed. Claimant is overpaid unemployment insurance benefits in the amount of \$828.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs