

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SAMANTHA L EBERT**  
Claimant

**APPEAL NO. 12A-UI-10357-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/01/12**  
**Claimant: Appellant (1R)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Claimant appealed a representative's decision dated August 3, 2012, reference 05, that concluded claimant was overpaid unemployment insurance as a result of a disqualification decision for separation with PRN Staffing. A hearing was scheduled and held on September 25, 2012 pursuant to due notice. Claimant did participate.

**ISSUE:**

The issue is whether claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now become final and allowed benefits. Claimant is overpaid \$666.00 for the three weeks ending July 21, 2012. Employer did participate at the fact-finding interview.

Claimant was allegedly disqualified in reference number 04 for not earning \$250 in wages from insured work during the last benefit year. Reference number 04 refers to an original claim date of April 21, 2012 which does not exist. Claimant was disqualified for the three weeks ending July 21 and for this original claim effective July 1, 2012. The decision in reference 04 is in conflict with the base period wages for the newest claim indicating several thousand dollars of earnings during the prior benefit year.

**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 administrative law judge concludes that claimant is overpaid unemployment insurance benefits in the amount of \$666.00 for the three weeks ending July 21, 2012, pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has become final. The prior decision, reference 06, benefit year July 3, 2011 allowed benefits for separation from employer PRN but only based on credits from other employment. When the claim year changed to July 1, 2012 claimant should have received a decision explaining why she was not eligible based on credits from other employers. Claimant should not have been disqualified under the \$250.00 rule in reference 04 based on wages shown in the base period. The decisions reference 02 in the current benefit year and reference 06 in the prior benefit year allow benefits but only based on credits from other employers. If claimant is overpaid it is only because she is not eligible based on credits from other employers for benefit year starting July 1, 2012. Claimant has not received such a decision or summary decision based on an examination of the file.

This matter is remanded to claims to submit corrected or summary decisions on reference 04 and 05 in the current benefit year and determination of eligibility based on credits from other employers in reference 06, claim date July 3, 2011 for benefit year July 1, 2012. It does not appear that claimant was properly informed why reference 06, July 3, 2011 disqualified claimant for the current benefit year. Claimant should receive a summary decision as to why she is not eligible effective July 1, 2012 based on reference number 06.

**DECISION:**

The decision of the representative dated August 3, 2012, reference 05, is affirmed and remanded. Claimant is overpaid, subject to remand decisions, \$666.00 for the three weeks ending July 21, 2012 as she was disqualified based on a separation from PRN Staffing Inc. This matter is remanded for a summary decision and or corrected decisions. Claims shall submit corrected decisions on reference 04 and 05 in the current benefit year with a determination of eligibility and weekly benefit amount based on credits from other employers in compliance with reference 06 for benefit year July 3, 2011. Claims shall issue a summary or corrected decision explaining why claimant was disqualified for benefits effective July 1, 2012. Should claimant be found eligible a corrected overpayment shall be issued by claims.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs