

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOLENE K STAUDT**  
Claimant

**APPEAL NO: 09A-UI-06552-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/23/07**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Jolene K. Staudt (claimant) appealed a representative's April 24, 2009 decision (reference 02) that held she had been overpaid \$5,109.00 in unemployment insurance benefits she received for the weeks ending December 29, 2007, through March 22, 2008. The overpayment was based on an administrative law judge's April 16, 2009 decision. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 26, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$5,109.00 in benefits she received for the weeks ending December 29, 2007 through March 22, 2008?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of December 23, 2007. She filed claims for the weeks ending December 29, 2007 through March 22, 2008. The claimant received a total of \$5,109.00 in benefits for these weeks.

On April 16, 2009, an administrative law judge issued a decision that held the claimant eligible to receive benefits based on the reasons for her employment separation, but concluded she was not eligible to receive benefits from December 23, 2007 through March 20, 2008, because she was not available for work until March 20, 2008. Although the claimant asserted she appealed the administrative law judge's April 16, 2009 decision to the Employment Appeal Board, there is no record she appealed the decision to the Employment Appeal Board.

**REASONING AND CONCLUSIONS OF LAW:**

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the

overpayment. Iowa Code § 96.3-7. Based on an administrative law judge's April 16, 2009 decision, this administrative law judge has no legal authority to change the decision concerning when the claimant was able to and available for work. A decision is considered the final decision unless a party appeals the decision to the Employment Appeal Board. Iowa Code § 96.6-2.

Based on an administrative law judge's April 16, 2009 decision, the claimant is not legally entitled to receive benefits for the weeks ending December 29, 2007, through March 22, 2008. She has been overpaid \$5,109.00 in benefits she received for these weeks.

The claimant questioned why the issues the administrative law judge's April 16, 2009 decision addressed were brought up a year later. Unfortunately, this question should have been raised with the first administrative law judge. Since the April 16, 2009 decision is considered a final decision, this question cannot be addressed in the current decision.

**DECISION:**

The representative's April 24, 2009 decision (reference 02) is affirmed. Based on an administrative law judge's April 16, 2009 decision, the claimant is not legally entitled to receive benefits for the weeks ending December 29, 2007, through March 22, 2008. The claimant has been overpaid and must repay a total of \$ 5,109.00 in benefits she received for these weeks.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css