

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JEFFREY L FULWIDER
544 – 26TH ST
ROCK ISLAND IL 60201**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-03458-RT
OC: 01-18-04 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Jeffrey L. Fulwider, filed a timely appeal from an unemployment insurance decision dated March 22, 2004, reference 05, determining that he was overpaid unemployment insurance benefits. After due notice was issued for a hearing on the appeal with which this hearing was consolidated, a telephone hearing was held on April 2, 2004, with the claimant participating. This appeal was consolidated with appeal number 04A-UI-02724-RT for the purposes of the hearing with the consent of the parties. Although no notice had been sent of this appeal, the parties permitted the administrative law judge to take evidence on and decide the overpayment issue. Although there was no employer or respondent in this appeal, the employer in the appeal with which this was consolidated, L A Leasing, Inc., doing business as Sedona Staffing, participated by Colleen McGuinty, Unemployment Benefits Administrator. The

administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: After exhausting both his regular benefits and extended benefits for benefit year beginning January 19, 2003, the claimant filed for a new benefit year effective January 18, 2004. Pursuant to the claimant's claim for unemployment insurance benefits for the new benefit year effective January 18, 2004, the claimant has received unemployment insurance benefits in the amount of \$1,800.00 as follows: \$300.00 per week for six weeks from benefit week ending January 24, 2004 to benefit week ending February 28, 2004. This amount is now shown as overpaid and is the subject of this appeal. In a decision in appeal number 04A-UI-02724-RT, the administrative law judge concluded that the claimant was not entitled to receive such unemployment insurance benefits because his separation from his employer, L A Leasing, Inc., doing business as Sedona Staffing, was disqualifying.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant is overpaid unemployment insurance benefits in the amount of \$1,800.00 for six weeks between January 18, 2004 and February 28, 2004. The administrative law judge concludes that the claimant is overpaid that amount for that period.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

The administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,800.00 since opening a claim for a new benefit year effective January 18, 2004. In appeal number 04A-UI-02724-RT, the administrative law judge concluded that the claimant was not entitled to receive such benefits because his separation from his employer, L A Leasing, Inc., doing business as Sedona Staffing, was disqualifying. Accordingly, the administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,800.00 to which he is not entitled and for which he is overpaid. The administrative law judge further concludes that these benefits must be recovered in accordance with the provisions Iowa law.

DECISION:

The representative's decision dated March 22, 2004, reference 05, is affirmed. The claimant, Jeffrey L. Fulwider, is overpaid unemployment insurance benefits in the amount of \$1,800.00 for six weeks between January 18, 2004 and February 28, 2004.

b/b