

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT A JANS
Claimant

APPEAL 17A-UI-04652-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/18/16
Claimant: Appellant (4)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed the December 16, 2016, (reference 04), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$17.00 for the three-week period ending December 10, 2016, as a result of an ineligibility decision. A telephone hearing was held on May 18, 2017, pursuant to due notice. The claimant participated.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a pension deductibility decision that has been affirmed. Claimant received unemployment insurance benefits in the gross amount of \$295.00 each week during the two weeks ending December 10, 2016. Claimant received \$68.00 in pension payments (two days') during the week-ending December 3, 2016, and \$169.00 each week thereafter. See 17A-UI-04651-DL-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

Iowa Code section 96.3(7) provides, in pertinent part:

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) (a) 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.

Claimant's receipt of two days' pension during the week-ending December 3, 2016, resulted in an underpayment of \$84.00 for that week. For the next week, claimant was entitled to \$278.00 in unemployment insurance benefits but was paid \$295.00, resulting in an overpayment of \$17.00. That, removed from the partial week underpayment of \$84.00, results in a gross unemployment insurance benefit underpayment of \$67.00.

DECISION:

The December 16, 2016, (reference 04) unemployment insurance decision is modified in favor of the appellant. The claimant has not been overpaid unemployment insurance benefits in the gross amount of \$17.00, but has been underpaid \$67.00 to which he was entitled. Since the \$17.00 "overpayment" has been offset on December 15, 2016, the underpayment shall be increased by that amount.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/scn