

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSARIO A BACA ANDRADE
Claimant

APPEAL NO. 080-UI-04276-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/10/08 R: 03
Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Recovery of Overpayment

STATEMENT OF THE CASE:

This matter was before the administrative law judge upon remand by the Employment Appeal Board in Hearing Number 08B-UI-03110. Rosario Baca Andrade filed a timely appeal from the March 24, 2008, reference 04, decision that he was overpaid \$906.00 in benefits for the three weeks between February 17 and March 8, 2008. After due notice was issued, a hearing was held on May 19, 2008. Mr. Baca Andrade participated. Spanish-English interpreter Ike Rocha assisted with the hearing. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 080-UI-04275-JTT. The administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether the claimant has been overpaid \$906.00 in benefits for the three weeks between February 17 and March 8, 2008.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Rosario Baca Andrade established a claim for benefits that was effective February 10, 2008. Mr. Baca Andrade received benefits totaling \$1,167.00. For the week ending February 16, 2008, the claimant received \$261.00. For each of the three following weeks, the claimant received \$302.00. The claim was prompted a February 11, 2008 discharge from Cargill Meat Solutions for excessive unexcused absences. On March 21, 2008, a Workforce Development representative entered a reference 01 decision that the claimant had been discharged for misconduct and disqualified the claimant for benefits. The overpayment issue in this case was created by the disqualification decision. The disqualification decision has now been affirmed on appeal. See Appeal Number 080-UI-04275-JTT.

On March 19, 2008, a Workforce Development representative entered a reference 02 decision that denied benefits for the week ending February 16, 2008, due to a vacation pay issue. On the same day, a Workforce Development representative entered a reference 03 decision that

the claimant was overpaid \$261.00 for week ending February 16, 2008. The claimant did not appeal either decision and each became a final Agency decision.

REASONING AND CONCLUSIONS OF LAW:

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.

Because the decision that prompted the overpayment decision has been affirmed on appeal, the administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the total amount of \$1,167.00. However, \$261.00 of the overpayment has already been addressed by the March 19, 2008, reference 03, overpayment decision. The claimant is overpaid \$906.00 in benefits for the three weeks between February 17 and March 8, 2008.

DECISION:

The March 24, 2008, reference 04, overpayment decision is affirmed. The claimant has been overpaid \$906.00 in benefits for the three weeks between February 17 and March 8, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs