

**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**

**KELLI S MCCHANE
1109 S 12TH ST
CLINTON IA 52732**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-02758-AT
OC: 01-11-04 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 - Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Kelli S. McChane filed a timely appeal from an unemployment insurance decision dated March 5, 2004, reference 02, which ruled that she had been overpaid by \$245.00 for the seven weeks between January 11, 2004 and February 28, 2004 because of a redetermination of benefits dated March 4, 2004 which deleted erroneous wage credits based upon wages from Manpower, Inc. of Cedar Rapids. Due notice was issued for a telephone hearing to be held April 1, 2004. Although Ms. McChane provided a telephone number at which she could be contacted, there was no answer at that number when called at the time of the hearing. The administrative law judge waited ten minutes for the claimant to call in. There being no contact from the claimant, the administrative law judge makes his decision based on information in the administrative file.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Manpower, Inc. of Cedar Rapids responded to the Agency's notice of claim by stating that Kelli S. McChane had not been an employee of the company during the first, second and third calendar quarters of 2003. Ms. McChane has not contradicted that information. When the erroneous wages were deleted, Ms. McChane's weekly benefit amount was reduced from \$190.00 to \$155.00, and her maximum benefit amount was reduced from \$2,674.08 to \$2,135.91. Ms. McChane received unemployment insurance benefits for the weeks ending February 28, 2004 at the original, incorrect amount. The excess benefits have been recovered.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. McChane must repay to the Agency the difference between the unemployment insurance benefits she received and those she should have received. She must. Iowa Code Section 96.3-7 requires that unemployment insurance benefits paid in error be repaid to the Agency, even if the individual who has received the benefits is not at fault for the overpayment. The evidence in the record establishes that wages were attributed to Ms. McChane erroneously. While Ms. McChane was not the cause of that error, the law requires that she refund the unemployment insurance benefits based upon the erroneous wages. She has done so.

DECISION:

The unemployment insurance decision dated March 5, 2004, reference 02, is affirmed. The claimant was overpaid by \$245.00. The benefits have been recovered now, and the claimant owes nothing more to the Agency at this time.

tjc/b