

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSE L VILLAFANA
Claimant

APPEAL 15A-UI-09881-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/09/15
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the September 2, 2015, (reference 02) unemployment insurance decision that found the claimant overpaid unemployment insurance benefits. After due notice was issued, a hearing was scheduled to be held on September 17, 2015. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 04 unemployment insurance decision), no testimony was necessary and no hearing was held.

ISSUE:

Should the unemployment insurance decision be affirmed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been resolved in favor of the appellant by the reference 04 unemployment insurance decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the unemployment insurance decision should be reversed.

Iowa Code § 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) 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. . . .

Since the decision appealed has been resolved in favor of the appellant, the original unemployment insurance decision bearing reference 02 is reversed.

DECISION:

The September 2, 2015, (reference 02) unemployment insurance decision is reversed. Claimant is not overpaid benefits for the two weeks ending August 22, 2015.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs