

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

LINDA D ANDERSON
410 WEST MARION
KNOXVILLE IA 50138

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 05A-UI-02117-R
OC: 01-09-05 R: 02
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, Linda D. Anderson, filed a timely appeal from an unemployment insurance decision dated February 25, 2005, reference 04, determining that she was overpaid unemployment insurance benefits. After due notice was issued, an in-person hearing was held in Des Moines, Iowa, at the claimant's request on March 23, 2005, with the claimant participating. Charles Mayberry testified for the claimant. This matter was consolidated with Appeal No. 05A-UI-02116-R for the purposes of the hearing with the consent of the parties. Although there was no employer or respondent noticed in this appeal, the employer in the appeal with which this was consolidated, Kum & Go, L.C., doing business as Kum & Go, participated in the hearing by Teri Groenendyk, General Manager. Employer's Exhibit One was admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant. This matter was

originally scheduled for a telephone hearing on March 15, 2005 at 10:30 a.m. and rescheduled as an in-person hearing at the claimant's request.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, including Employer's Exhibit One, the administrative law judge finds: Claimant filed for unemployment insurance benefits effective January 9, 2005 and began receiving benefits which continued thereafter. The claimant received unemployment insurance benefits in the amount of \$1,289.00 for six weeks from benefit week ending January 15, 2005 to benefit week ending February 19, 2005. In each of those weeks the claimant reported earnings which had the effect of reducing the claimant's benefits for those weeks. This amount is now shown as overpaid and is the subject of this appeal. In Appeal No. 05A-UI-02116-R, the administrative law judge concluded that the claimant was not entitled to receive such unemployment insurance benefits because her separation from her employer, Kum & Go, L.C., doing business as Kum & Go, 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 \$1,289.00 for six weeks between January 9, 2005 and February 19, 2005. 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 \$1,289.00 since separating from her employer, Kum & Go, L.C., doing business as Kum & Go, on January 7, 2005 and filing for such benefits effective January 9, 2005. In Appeal No. 05A-UI-02116-R, the administrative law judge concluded that the claimant was not entitled to receive such benefits because her separation from the employer was disqualifying. Accordingly, the administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,289.00 to which she is not entitled and she is, therefore, overpaid such benefits. The administrative law judge further concludes that these benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision dated February 25, 2005, reference 04, is affirmed. The claimant, Linda D. Anderson, is overpaid unemployment insurance benefits in the amount of \$1,289.00 for six weeks between January 9, 2005 and February 19, 2005.

kjf/kjf