

IOWA DEPARTMENT OF INSPECTIONS & APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
Lucas State Office Building
Des Moines, Iowa 50319

Appeal Number: 06-IWDUI-041
OC: 06/27/04
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JOANNE R KIPPER
15335 ABBEY CIRCLE
PEOSTA IA 52068

IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

DAN ANDERSON, IWD

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 the Department . 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)

March 24, 2006

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated February 15, 2006, reference 01, which held that the claimant was overpaid unemployment benefits in the amount of \$2,406.00, because she incorrectly reported or failed to report her earnings from Parisian Virginia LLC during the period from October 30, 2004 to April 30, 2005.

After due notice was issued, a hearing was held by telephone conference call on March 20, 2006.

The claimant participated. Iowa Workforce Development, Investigation and Recovery, did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having examined all of the evidence in the record, finds that: The claimant filed a claim for unemployment benefits with an effective date of June 27, 2004. The department audited the claimant's claim for the fourth quarter of 2004, and the first and second quarters of 2005. The department compared the employer's (Youngers) earnings report for the claimant against he unemployment claims for the same weeks.

The department concluded the claimant had a net overpayment of \$2,406, and Investigator Carnahan mailed her a notice with a request for an interview. The department issued the decision after the interview.

The claimant submitted an appeal letter on the basis that she did not intend to deceive the department regarding her unemployment claim, and she requested some relief in repaying the overpayment. During the hearing, the claimant confirmed that she did not dispute the amount of the overpayment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is overpaid benefits \$2,406.00.

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 division of job service 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 division a sum equal to the overpayment.

If the division 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 is overpaid benefits \$2,406.00 for the period form October 30, 2004 to the period ending April 30, 2005 pursuant to Iowa Code Section 96.3-7. The statute cited by the department confirms that the overpayment was due to a "good faith err" by the claimant. The claimant was provided with information about how to contact the department to implement a repayment plan.

DECISION:

The decision of the representative dated February 15, 2006, reference 01, is AFFIRMED. The claimant is overpaid benefits \$2,406.00.

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