

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELLY A WALSH
Claimant

APPEAL NO. 14A-UI-05560-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 03/02/14
Claimant: Appellant (1/R)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 27, 2014, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on June 18, 2014. Claimant participated. Employer participated by Paul Passuti.

ISSUE:

The issue in this matter is whether claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now been modified. Claimant received \$581.00 for the three weeks ending May 3, 2014. Employer did participate at the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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.

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 § 96.8, subsection 5.

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 § 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to § 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to § 602.10101.

The administrative law judge holds that claimant did continue to receive benefits for the three-week period ending May 3, 2014. Based on the modification of the disqualification decision, the matter is remanded to the Claims Section for determination of claimant's overpayment. Employer's account shall not be charged because employer did meaningfully participate at fact finding.

DECISION:

The decision of the representative dated May 27, 2014, reference 03, is affirmed and remanded for determination of claimant's overpayment.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/css