

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIAN R GROSS
Claimant

APPEAL NO. 11A-UI-02995-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/31/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated March 3, 2011, reference 03, which held the claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for April 2, 2011. The claimant failed to respond to the hearing notice and did not participate. The record consists of the administrative file.

ISSUE:

Whether the claimant was overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

An administrative law judge decision was entered on January 21, 2011, which held that the claimant was not eligible for unemployment insurance benefits (See Appeal Number 10A-UI-16516-S2T). The claimant appealed the administrative law judge's decision to the Employment Appeal Board. The Employment Appeal Board affirmed the administrative law judge's decision on March 15, 2011. There is no record that the claimant has appealed further.

The claimant was paid the sum of \$2,310.00 in weekly benefits for the eleven weeks between October 31, 2010 and January 15, 2011.

The employer participated in the fact-finding.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, 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.

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. 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 section 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 section 602.10101.

The evidence established that the claimant has been overpaid the sum of \$2,310.00 in unemployment insurance benefits. She was not entitled to receive those benefits. The benefits must be repaid.

DECISION:

The decision of the representative dated March 3, 2011, reference 03, is affirmed. The claimant has been overpaid the sum of \$2310.00 in unemployment insurance benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw