

**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**

**BEATRICE B CLUPPER
7324 MAPLE DR
URBAN DALE IA 50322**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**DARWIN CLUPPER
ATTORNEY AT LAW
7324 MAPLE DR
URBAN DALE IA 50322**

**Appeal Number: 06A-UI-02476-RT
OC: 01/29/06 R: 02
Claimant: Appellant (2)**

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 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Beatrice B. Clupper, filed a timely appeal from an unemployment insurance decision dated February 22, 2006, reference 04, determining that she was overpaid unemployment insurance benefits. After due notice was issued, a telephone hearing was held on March 16, 2006, with the claimant participating. The claimant was represented by Darwin Clupper, Attorney at Law. This appeal was consolidated with appeal number 06A-UI-02475-RT 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

appeal was consolidated, Urbandale Community School District, participated by Deb Boston, Administrative Assistant/Payroll. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant filed for unemployment insurance benefits effective January 29, 2006 and received unemployment insurance benefits in the amount of \$103.00 for benefit week ending February 8, 2006 (earnings \$89.00). This amount is now shown as overpaid and is the subject of this appeal. In a decision in appeal number 06A-UI-02475-RT, the administrative law judge concluded that the claimant was entitled to receive such unemployment insurance benefits because, at relevant times, she is, and was, able, available, and earnestly and actively seeking work.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant is overpaid unemployment insurance benefits in the amount of \$103.00 for one week between January 29, 2006 and February 4, 2006. The administrative law judge concludes that the claimant is not 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 \$103.00 for the benefit week ending February 4, 2006. In appeal number 06A-UI-02475-RT, the administrative law judge concluded that the claimant was entitled to such benefits because she was able, available, and earnestly and actively seeking work. However, the administrative law judge further concluded that the employer, Urbandale Community School District, should be relieved of any charges for unemployment insurance benefits to which the claimant is entitled. Accordingly, the administrative law judge concludes that the claimant has not received unemployment insurance benefits in the amount of \$103.00 to which she is not entitled and she is, therefore, not overpaid such benefits. However, those benefits should not be charged against the account of the employer herein, Urbandale Community School District, and the employer's account should be relieved of any such charges.

DECISION:

The representative's decision of February 22, 2006, reference 04, is reversed. The claimant, Beatrice B. Clupper, is not overpaid unemployment insurance benefits in the amount of \$103.00 for one week between January 29, 2006 and February 4, 2006. However, those benefits should not be charged against the account of the employer, Urbandale Community School District.

cs/s