

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE L KLOSTERMANN
Claimant

APPEAL NO. 12A-EUCU-00055-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/16/08
Claimant: Appellant (1-R)

Section 96.3-7 – Recovery of Overpayments
871 IAC 24.50(7) – Waiver of Overpayments

STATEMENT OF THE CASE:

Jamie L. Klostermann filed a timely appeal from an unemployment insurance decision dated February 3, 2012, reference 05, that ruled he had been overpaid emergency unemployment compensation benefits totaling \$816.00 for the eight weeks ending January 28, 2012. After due notice was issued, a telephone hearing was held on a consolidated record with 12A-EUCU-00054-AT on February 24, 2012. The administrative law judge takes official notice of Agency benefit payment records and overpayment records.

ISSUES:

Has the claimant been overpaid?

Should the question of waiver of the overpayment be remanded?

FINDINGS OF FACT:

Jamie L. Klostermann received emergency unemployment compensation benefits totaling \$816.00 for the eight weeks ending January 28, 2012. The fact-finding decision holding him ineligible for those benefits has been affirmed by the administrative law judge's decision in the companion case. A portion of the overpayment was recovered when the Agency re-entered the eight weeks at the claimant's current weekly benefit amount of \$80.00. It continues to withhold his state unemployment insurance benefits to offset the remainder of the overpayment.

Mr. Klostermann is not at fault for the overpayment. It occurred because of Agency oversight in not recognizing that he was monetarily eligible for a new state benefit year. Besides unemployment insurance benefits, Mr. Klostermann's only income is \$900.00 per month in social security disability payments. His rent costs \$360.00 per month. He is behind on other bills.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the overpayment is accurate. It is.

The record shows that Mr. Klostermann received more in benefits than he should have received. Iowa Code section 96.3-7 establishes a general rule that benefits paid in error be repaid, even if the recipient is not at fault for the overpayment.

Under some circumstances, however, an overpayment of emergency unemployment compensation benefits may be waived. Section 871-24.50(7) allows a waiver if the overpayment is not the fault of the individual and if it would be contrary to equity and good conscience to require the overpayment. The administrative law judge remands the question of waiver to the Unemployment Insurance Services Division. In reviewing the question of waiver, the Agency shall consider the fact that the claimant is not at fault for the overpayment and the claimant's limited financial resources.

DECISION:

The unemployment insurance decision dated February 3, 2012, reference 05, is affirmed. The claimant was overpaid emergency unemployment compensation benefits in the gross amount of \$816.00. The question of waiver of all or a portion of the overpayment is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw