

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOY A SPEIR Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	68-0157 (9-06) - 3091078 - EI APPEAL NO: 06A-UI-10057-DT ADMINISTRATIVE LAW JUDGE DECISION OC: 08/27/06 R: 04 Claimant: Appellant (1)
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Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Joy A. Speir (claimant) appealed a representative's October 13, 2006 decision (reference 03) that concluded she had been overpaid unemployment insurance benefits. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on October 30, 2006, in conjunction with one related appeal, 06A-UI-10056-DT, scheduled for hearing at 1:00 p.m. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant overpaid unemployment insurance benefits of \$133.84 for the week ending October 7, 2006?

FINDINGS OF FACT:

A representative issued a decision dated October 12, 2006 (reference 02) that concluded the claimant was not eligible for benefits determined as due to a business closure after a separation from employment from ADECCO USA, Inc. (employer). The overpayment decision was issued in this case as a result of that denial decision. As determined in the concurrently issued decision in appeal 06A-UI-10056-DT, that decision has now been affirmed.

The claimant established a claim for unemployment insurance benefits effective June 11, 2006. Her weekly benefit amount was calculated to be \$172.00. Her benefits were initially calculated as due to a business closing, so her maximum weekly benefit amount was set as \$3,927.24 because her wage credits calculated on the one-half of wage basis rather than the one-third of wage basis. Because of the decision that her separation was not due to the employer's business closing, her claim and wage credits were redetermined under the normal one-third basis, so her maximum benefit amount was set at \$2,618.16. The claimant exceeded this maximum by \$133.84 after being paid her weekly benefit amount for her weekly claim for the week ending October 7, 2006.

REASONING AND CONCLUSIONS OF LAW:

An underlying disqualification can result in an overpayment of unemployment insurance benefits.

Iowa Code § 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 decision causing the disqualification has now been affirmed. The administrative law judge concludes that the claimant is overpaid benefits of \$133.84 pursuant to Iowa Code § 96.3-7 due to the disqualification decision issued on October 12, 2006 which has not been affirmed. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's October 13, 2006 decision (reference 03) is affirmed. The claimant is overpaid benefits of \$133.84.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs