

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN MONCADA
Claimant

APPEAL NO. 11A-UI-11577-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/26/09
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Juan Moncada filed a timely appeal from an unemployment insurance decision dated August 23, 2011, reference 03, that ruled he had been overpaid \$3,417.00 for the ten weeks ending January 16, 2010 because of a fact-finding decision dated January 25, 2010 that had disqualified him for benefits and that had been affirmed by an administrative law judge decision on April 19, 2010. Due notice was issued for a telephone hearing to be held September 28, 2011. Mr. Moncada did not respond to the hearing notice. The administrative law judge takes official notice of agency decision records and benefit payment records.

ISSUE:

Must the claimant repay the benefits he has received?

FINDINGS OF FACT:

Juan Moncada received unemployment insurance benefits in the gross amount of \$3,417.00 for the ten weeks ending January 16, 2010. A fact-finding decision dated January 25, 2010 that disqualified him for benefits was affirmed by an administrative law judge's decision on April 19, 2010. The administrative law judge's decision has not been reversed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 requires that unemployment insurance benefits paid in error be repaid, even if the individual who has received the benefits in question is not at fault for the overpayment. The statute provides a limited exception to this general rule in the event that a fact-finding decision has allowed benefits to the claimant and the employer has not participated in the fact-finding process. If an administrative law judge then reverses the fact-finding decision, the individual may keep the benefits that have been received to that point.

The exception to the rule does not apply in the present case because the fact-finder ruled against Mr. Moncada. He has received benefits for which he was not entitled. They must be repaid.

DECISION:

The unemployment insurance decision dated August 23, 2011, reference 03, is affirmed. The claimant has been overpaid \$3,417.00 for the ten weeks ending January 16, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs