

**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**

**FLORENCE M ANDERSON
2 RIDGE DR W
COUNCIL BLUFFS IA 51503**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-03932-B4T
OC: 06-01-03 R: 01
Claimant: Appellant (1R)**

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 appealed a representative's decision dated March 29, 2004, reference 02, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$87.00 as a result of a disqualification decision. A consolidated telephone hearing was scheduled and held on April 22, 2004, pursuant to due notice. The claimant, Florence M. Anderson, participated. Jerry Anderson, the claimant's husband, participated as a witness.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now

been affirmed. The evidence in the record clearly establishes that the claimant has returned the benefit check in the amount of \$87.00 sent to her for the benefit week ending January 10, 2004. The administrative records disclose that the claimant is presently overpaid benefits in the amount of \$13.05. This matter should be remanded for inquiry with respect to the nature of the overpayment in the amount of \$13.05 which presently appears to be due.

REASONING AND CONCLUSIONS OF LAW:

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, Florence M. Anderson, is overpaid unemployment insurance benefits in the amount of \$87.00, pursuant to Iowa Code Section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed. This matter should be remanded with respect to the nature of the remaining overpayment balance of \$13.05.

DECISION:

The decision of the representative dated March 29, 2004, reference 02, is affirmed. The claimant, Florence M. Anderson, is overpaid unemployment insurance benefits in the amount of \$87.00. This matter is remanded for such other and further inquiries as may be required regarding the claimant's return of the benefit check received by her for the benefit week ending January 10, 2004 and the remaining balance which appears on her file in the amount of \$13.05.

tjc/b