

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

ROBERT HEATH  
PO BOX 162  
BOUTON IA 50039-0162

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-02711-B4T  
OC: 03/05/95 R: 02  
Claimant: Appellant (1)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 25.16 – Iowa Tax Refund Offset

STATEMENT OF THE CASE:

Robert Heath appealed from an unemployment insurance decision dated March 2, 2004, reference 01, that held, in effect, an overpayment of unemployment insurance benefits paid to the claimant is being withheld from his Iowa income tax refund.

A telephone conference hearing was scheduled and held on April 1, 2004 pursuant to due notice. Robert Heath participated.

Official notice was taken of the decision dated, March 2, 2004, reference 01, together with the pages attached thereto (4 pages in all).

#### FINDINGS OF FACT:

The administrative law judge, having examined the entire record in this matter, finds that: Robert Heath filed an initial claim for benefits having an effective date of March 5, 1995. Subsequently, a decision of the representative was dated and mailed to the claimant on July 6, 1995. Benefits were denied as a result of the said decision.

Subsequently, a decision was dated and mailed to the claimant on July 7, 1995, reference 06. That decision held the claimant was overpaid benefits in the amount of \$735.00 for the three weeks between April 16, 1995 and May 6, 1995 because of a disqualifying decision bearing reference 05 dated July 6, 1995.

Robert Heath filed an Iowa state income tax return for the past year and is entitled to receive a refund in excess of \$50.00 plus the Iowa Department of Administrative Services \$5.00 transfer fee. Workforce Development Department has taken such action as is necessary as to withhold the Iowa income tax refund due to Robert Heath for the purpose of reducing or paying in full the overpayment amount due because of the decision dated July 7, 1995, reference 06, that held the claimant was overpaid benefits in the amount of \$735.00.

#### REASONING AND CONCLUSIONS OF LAW:

871 IAC 25.16 provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(1) If the individual has made no attempt to repay the overpayment of benefits within the preceding six months, the individual's name and social security number are given to the department of revenue and finance.

(2) The department of revenue and finance notifies the department that an overpaid individual is owed a payment from the state. The department then notifies the overpaid individual of the potential offset against the individual's payment from the state.

(3) In the case of a joint or combined income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue and finance to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for split of the refund is not made timely, the entire income tax refund becomes subject to offset.

(4) Any appeal by the individual is limited to the validity of job service's authority to recoup the overpayment through offset.

(5) In the event that the amount of the offset exceeds the remaining overpayment, the department shall issue to the individual a special check equal to the amount of the excess.

This rule is intended to implement Iowa Code sections 96.11 and 421.17(26,29).

871 IAC 25.16(3) provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(3) In the case of a joint income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue and finance to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for the split of the refund is not made timely, the entire income tax refund becomes subject to offset.

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 evidence in the record establishes that the claimant received benefits in the amount of \$735.00 for the three weeks between April 16, 1995 and May 6, 1995 because of his qualifying decision dated July 6, 1995, reference 05 and an overpayment decision dated July 7, 1995, reference 06, which have become final.

Under such circumstances, there is an overpayment of benefits in the amount indicated within the intent and meaning of Iowa Code Section 96.3-7. In addition, the Workforce Development Department is entitled to recover all or a portion of the payment from the claimant's Iowa income tax refund; all within the meaning of the foregoing sections of the Iowa Code and Iowa Administrative Code.

DECISION:

The decision of the representative dated March 2, 2004, reference 01, is affirmed. The overpayment of unemployment insurance benefits due Robert Heath may be withheld from his Iowa income tax refund.

kjf/b