

**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**

**MEGAN R CLARK
442 INLAND DR APT 2B
WHEELING IL 60090-6822**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-07380-JTT
OC: 01/15/06 R: 04
Claimant: Appellant (2)**

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) – Overpayment of Benefits

STATEMENT OF THE CASE:

Megan Clark filed a timely appeal from the July 11, 2006, reference 06, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$451.00 as a result of a disqualification decision. After due notice was issued, a hearing was held on August 8, 2006. Ms. Clark participated in the hearing. The hearing was consolidated with the hearing in Appeal Number 06A-UI-07379-JTT and the administrative law judge hereby takes official notice of the decision entered in that matter.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a disqualification decision that has now been modified in favor of the claimant. See Appeal Number 06A-UI-07379-JTT.

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 has not been overpaid unemployment insurance benefits in the amount of \$451.00 pursuant to Iowa Code section 96.3(7), as the disqualification decision that created the overpayment decision has now been modified in favor of the claimant. However, that decision has been remanded for determination of whether the claimant was available for work during the benefit weeks that ended June 3 and June 10, 2006, and may result in a new overpayment decision.

DECISION:

The Agency representative's July 11, 2006, reference 06, decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$451.00.

jt/kjw