

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUGLAS D RAMSEY
Claimant

APPEAL NO: 13A-UI-00196-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/16/12
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits/Waiver of Overpayment

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 27, 2012 determination (reference 03) that held him overpaid \$4,335.00 in benefits he received for the weeks ending September 22 through December 1, 2012. The overpayment occurred as the result of an administrative law judge's decision that reversed a representative's determination that had held the claimant eligible to receive benefits. The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant has been overpaid this amount of benefits.

ISSUES:

Has the claimant been overpaid \$4,335.00 in benefits?

Is the claimant eligible for a waiver of the overpayment?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 16, 2012. He filed claims for the weeks ending September 22 through December 1, 2012. He received a total gross benefit payment of \$4,335.00 for these weeks.

The claimant and his former employer, Osceola Food, participated in a fact-finding interview in early October 2012. On October 8, 2012, a representative decided the claimant was qualified to receive benefits as of September 16, 2012, because he had been discharged for nondisqualifying reasons. The employer appealed the determination.

On November 6, 2012, the claimant and employer participated in an administrative hearing. On November 26, the administrative law judge issued a decision that reversed the October 8 determination held the claimant disqualified from receiving benefits as of September 16, 2012. See decision for appeal 12A-UI-12227-NT.

The claimant appealed the administrative law judge's November 26, 2012 decision. The Employment Appeal Board reviewed the administrative law judge's decision and affirmed it on January 30, 2013.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3(7)b.

In this case, the initial October 8 determination held the claimant qualified to receive benefits. Later, an administrative law judge reversed the initial determination and held the claimant was not qualified to receive benefits. Based on the decision for 12A-UI-12227-NT and the Employment Appeal Board's decision to affirm the decision, the claimant has been overpaid \$4,335.00 in benefits he received for the weeks ending September 22 through December 1, 2012. The claimant is not at fault in receiving the overpayment. Since the employer participated in the initial proceeding or fact-finding interview, the claimant is not eligible for a waiver of the overpayment. This means the claimant is responsible for paying back the overpayment.

DECISION:

The representative's December 27, 2012 determination (reference 03) is affirmed. Based on the decision for appeal 12A-UI-12227-NT and the Employment Appeal Board's decision to affirm the decision, the claimant was not legally entitled to receive benefits as of September 16, 2012. He has been overpaid \$4,335.00 in benefits he received for the weeks ending September 22 through December 1, 2012. Even though the claimant is NOT at fault in receiving the overpayment, he is still required to pay back the overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css