

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER L BANGS
Claimant

APPEAL NO: 12A-UI-08118-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/18/11
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 June 26, 2012 determination (reference 03) that held him overpaid \$3,080.00 in benefits he received from December 18, 2011, through February 11, 2012. The overpayment occurred after an administrative law judge reversed an earlier determination that held the claimant qualified to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. Based on the administrative record and the law, the administrative law judge concludes the claimant has been overpaid \$3,080.00 in benefits.

ISSUES:

Has the claimant been overpaid 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 December 18, 2011. He filed claims for the weeks ending December 24, 2011, through February 11, 2012. He received his maximum weekly benefit amount of \$385.00 for each of these weeks.

On January 13, 2012, a claims specialist talked to both the claimant and the employer's human resource generalist to find out why the claimant's employment ended. Based on the information provided by the employer and claimant, a January 17, 2012 determination (reference 01) held the claimant qualified to receive benefits. The employer appealed this determination.

After the parties presented testimony, an administrative law judge reversed the January 17 determination and concluded the claimant was not qualified to receive benefits. See decision for appeal 12A-UI-00948-ST. The claimant did not appeal this decision to the Employment Appeal Board.

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 claimant received benefits that an administrative law judge later decided he was not eligible to receive benefits. Based on the decision for appeal 12A-UI-00948-ST, the claimant has been overpaid \$3,080.00 in benefits he received for the weeks ending December 24, 2011, through February 11, 2012. The claimant is not at fault in receiving the overpayment. Since the employer participated at the initial fact-finding interview, the claimant is not eligible for a waiver of the overpayment. Therefore, the claimant is responsible for paying back \$3,080.00 in benefits he was not legally entitled to receive.

DECISION:

The representative's June 26, 2012 determination (reference 03) is affirmed. Based on the decision for appeal 12A-UI-00948-ST, the claimant is not legally entitled to receive benefits as of December 18, 2011. He has been overpaid \$3,080.00 in benefits he received for the weeks ending December 24, 2011, through February 11, 2012. The claimant is not at fault in receiving the overpayment, but he is not eligible for a waiver of the overpayment. The claimant is required to pay back the overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs