

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARRIE L SPORRER
Claimant

APPEAL NO. 11A-UI-01978-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/05/10
Claimant: Appellant (1)

Section 96.3-7 – Overpayment of Benefits
Section 96.3-7 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 10, 2011, reference 02, which held claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 29, 2011. Claimant participated. The record consists of the testimony of Carrie Sporrer. Official notice is taken of agency documents.

ISSUE:

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for benefits with an original claim date of September 5, 2010. The claimant was awarded benefits by the representative in a decision dated October 25, 2010, reference 01. The employer filed a timely appeal of that decision. On December 16, 2010, a hearing was held before an administrative law judge. The administrative law judge issued a decision dated December 20, 2010, which reversed the decision of the representative. The claimant was deemed ineligible for benefits. The case was remanded to the claims section for determination of the overpayment. The claimant did not appeal this decision to the Employment Appeal Board.

The representative issued a decision dated February 10, 2011, which held that the claimant had been overpaid 14 weeks of unemployment insurance benefits in the amount of \$4,431.00. The claimant was paid these benefits. The employer participated in the fact-finding process.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The evidence established that the claimant was paid and did receive unemployment insurance benefits in the amount of \$4,431.00. She was later disqualified from receiving these benefits by decision of the administrative law judge in 10A-UI-15283-SWT. The claimant admitted that she did not appeal this decision. Because the claimant received benefits to which she was not entitled, those benefits must be repaid.

DECISION:

The decision of the representative dated February 10, 2011, reference 02, is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$4,431.00. Those benefits must be repaid by the claimant.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs