

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PETER H DONNER
Claimant

APPEAL NO. 13A-UI-12422-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/21/13
Claimant: Appellant (5)**

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated October 25, 2013, reference 04, that held he is overpaid benefits \$25 for the week ending September 14, 2013 due to failing to report wages earned with Durham School Services. A hearing was held on November 22, 2013. The claimant participated.

ISSUE:

The issue is whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: Claimant filed a UI claim effective July 21, 2013. He listed Durham School Services (ER #343229) as his last employer and last day worked May 9, 2013. The department issued an August 29 decision that held claimant was not discharged for misconduct from Durham on May 10 and benefits are allowed. The employer did not appeal.

The claimant did not work for Durham the week ending September 14, 2013. He worked for a new employer. He under-estimated his wages for his first employment week while claiming for a benefit. When he discovered the error he went to his Davenport workforce center and the mistake was corrected. The department collected the \$25 overpayment by offset procedure for the week ending October 26. The current department record shows a zero balance for overpayment.

Claimant appealed this matter due to the factual error the overpayment arose from employment at Durham the week ending September 14 (that is incorrect) when it occurred due to mis-reporting his wages for the first week of employment with a new employer. Claimant made a good faith error and he immediately corrected it.

REASONING AND CONCLUSIONS OF LAW:

Ref. Iowa Code § 96.3-7 provides in pertinent part:

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. . . .

The administrative law judge concludes claimant is overpaid benefits \$25 due to mis-reporting wages with a new employer the week ending September 14, 2013. The overpayment is not due to him failing to report wages at Durham as he performed no work there after May 10. There was no claimant intent to obtain a benefit by fraud or deceit. It was a good faith error.

The claimant acknowledges the department has collected the overpayment by offset procedure the week ending October 26 as he has no outstanding (zero balance) overpayment as of the date of this hearing. He has corrected this overpayment matter and it is resolved.

DECISION:

The decision of the representative dated October 25, 2013, reference 04, is modified. Claimant incurred a \$25 benefit overpayment the week ending September 14, 2013, but it was due to mis-reporting his first weekly paycheck from a new employer. The overpayment has been collected by department offset procedure and claimant has no outstanding overpayment as of the date of this hearing.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs