

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHONNA M STANLEY**  
Claimant

**APPEAL NO. 10A-UI-12670-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**G & J INVESTMENTS INC**  
Employer

**OC: 11-27-09**  
**Claimant: Appellant (2)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 1, 2010, reference 02, decision that denied benefits. After due notice was issued hearing was scheduled for October 27, 2010 by telephone conference call. Because of subsequent agency action, the hearing was not necessary.

**ISSUE:**

Has the claimant been overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision the claimant appealed from dated August 25, 2010, reference 03, found the claimant overpaid unemployment insurance benefits. In a subsequent representative's decision dated October 27, 2010, reference 06, amending reference 03, the agency reversed that overpayment.

**REASONING AND CONCLUSIONS OF LAW:**

Inasmuch as the agency reversed the prior overpayment prior to the hearing, there is no issue for the administrative law judge to adjudicate.

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.

**DECISION:**

The representative's decision dated March 1, 2010, reference 02, is reversed so as to be consistent with the subsequent agency action. The claimant has not been overpaid unemployment insurance benefits.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/css