

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WALTER D CUBIT**  
Claimant

**APPEAL 19A-UI-00143-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 11/04/18  
Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the January 4, 2019 (reference 03) unemployment insurance decision that found claimant was overpaid benefits of \$1,401.00 for three weeks between December 9, 2018 through December 29, 2018. Claimant was properly notified of the hearing. A telephone hearing was held on January 23, 2019. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Is the claimant overpaid benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's original claim date is November 4, 2018. Claimant's weekly benefit amount is \$467.00.

An unemployment insurance benefits decision was issued on January 2, 2019 that found the claimant was not eligible for unemployment insurance benefits for one week beginning December 9, 2018 through December 15, 2018, due to him being unavailable for work. The claimant appealed that decision and it has now been affirmed.

The claimant received benefits of \$467.00 for the one-week period between December 9, 2018 through December 15, 2018. The underlying ineligibility decision that prompted the overpayment decision found that claimant was ineligible for one week, not three weeks.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

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 § 96.8, subsection 5.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits of \$467.00 for the one-week period ending December 15, 2018. The claimant is not overpaid benefits for the two-week period beginning December 16, 2018 and ending December 29, 2018.

**DECISION:**

The January 4, 2019 (reference 03) unemployment insurance decision is modified in favor of the appellant. The claimant has been overpaid unemployment insurance benefits of \$327.00 to which he was not entitled. Those benefits must be recovered in accordance with Iowa law. Claimant is eligible for benefits and not overpaid benefits for the two-week period beginning December 16, 2018 and ending December 31, 2018.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/rvs