

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TIFFANY A FORD Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 11A-EUCU-00317-S2T</div> <div>ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 06/21/09 Claimant: Appellant (2)</div>
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Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

The administrative law judge became aware of a representative's decision dated October 20, 2009, reference 03, that concluded the claimant was overpaid unemployment insurance benefits as a result of a disqualification decision dated August 18, 2009. A hearing was not deemed necessary to be held in order to make a decision for reasons which will appear in the Findings of Fact.

ISSUE:

The issue is whether the claimant was overpaid unemployment insurance benefits in an amount of \$2,260.00.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant filed an original claim for job insurance benefits effective June 21, 2009. A disqualification decision was issued on August 18, 2009. That decision was affirmed in decision 09A-UI-12093-H2T on September 10, 2009. On November 4, 2009, the employment appeal board reversed and remanded the matter for determination. Neither the administrative law judge nor the employment appeal board addressed the issue of the overpayment. A workforce development worker deleted the overpayment from the claimant's account. Subsequent to November 4, 2009, a corrected monetary record was issued.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant was not overpaid unemployment insurance benefits in an amount of \$2,260.00.

Iowa Code section 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 administrative law judge concludes that the claimant was not overpaid unemployment insurance benefits in an amount of \$2,260.00 pursuant to Iowa Code section 96.3-7, as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The representative's October 20, 2009 decision (reference 03) is reversed. The claimant was not overpaid unemployment insurance benefits in an amount of \$2,260.00.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw