

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ISIDRO HERNANDEZ**  
Claimant

**APPEAL NO. 07A-UI-00231-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAGEN INC**  
Employer

**OC: 11/26/06 R: 12**  
**Claimant: Appellant (2)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The claimant appealed a representative's decision dated January 4, 2007, reference 02, that concluded he was overpaid unemployment insurance benefits as a result of a disqualification decision. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was held on January 25, 2007. The claimant participated personally through Susie Jacquez, Interpreter.

**ISSUE:**

The issue is whether the claimant is 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, finds that: The overpayment issue in this case was created by a disqualification decision that has now been reversed.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant is not overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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 that the claimant was not overpaid unemployment insurance benefits pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been reversed.

**DECISION:**

The decision of the representative dated January 4, 2007, reference 02, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$1,002.00.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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