

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHAD A COMSTOCK**  
Claimant

**APPEAL NO. 12A-UI-01161-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/10/11**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

Claimant appealed from a department representative's decision dated January 23, 2012, reference 04, that held he is overpaid benefits \$494 based on an ALJ decision dated December 12, 2011. A hearing was scheduled for February 28, 2012. The claimant did not participate.

**ISSUE:**

The issue is whether the claimant is overpaid benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds that: The department issued a decision dated August 19, 2011, reference 03, that allowed claimant benefits by reason of his employment separation from Papa John's Pizza on July 3, and the employer appealed. The decision was reversed (#11A-UI-11208-WT) by an ALJ on December 12, and it was not appealed. The department record shows claimant was paid \$494 benefits on his unemployment claim before the reversal.

Claimant failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

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 is overpaid benefits \$494 due to an ALJ department decision dated December 12, 2011. The department issued a decision on August 19, 2011 that allowed claimant benefits, but it was reversed by the ALJ decision that caused claimant to be overpaid the benefits he had received.

**DECISION:**

The representative's decision dated January 23, 2012, reference 04, is affirmed. The claimant is overpaid benefits \$494.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw