

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHARON L THORNTON**  
Claimant

**APPEAL NO. 13A-UI-05717-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/11/12  
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated May 1, 2013, reference 03, that held she is overpaid benefits \$953.00 for the 11 weeks ending January 26, 2013 due to an ALJ January 14 decision that disqualified her. A hearing was held on June 27, 2013. The claimant participated.

**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: Claimant filed a UI claim effective November 11, 2012. The department issued a decision dated December 7, 2012, reference 01, that allowed claimant UI benefits. The employer participated in department fact finding and it appealed.

An ALJ issued a January 14, 2013 decision (12A-UI-14491-S2T) that disqualified claimant and caused her to be overpaid the \$953.00 UI benefits she had received. The department record is claimant did not appeal the ALJ decision to the Employment Appeal Board (EAB). Claimant recalls someone from the Board responded to an inquiry that it was too late to appeal.

**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 \$953.00 due to a department ALJ January 14, 2013 decision that has become final as it was not appealed.

Claimant received UI benefits totaling \$953.00 for an 11 week period prior to the disqualification imposed by the ALJ decision. Claimant did not appeal this decision and it is final. Since the employer participated in department fact finding there is no relief from the repayment.

**DECISION:**

The decision of the representative dated May 1, 2013, reference 03, is affirmed. The claimant is overpaid benefits \$953.00.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/css