

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY J GOSCH
Claimant

APPEAL NO. 10A-EUCU-00960-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/13/09
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Randy J. Gosch filed a timely appeal from an unemployment insurance decision dated October 12, 2010, reference 04, that ruled he had been overpaid \$427.00 for the week ending August 7, 2010, upon a finding that he had failed to report wages when earned. After due notice was issued, a telephone hearing was held November 29, 2010, with Mr. Gosch participating. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Randy J. Gosch is employed in the real estate industry. During the week of August 7, 2010, he was the agent in a transaction in which an offer to purchase was signed. He became potentially eligible for a commission of approximately \$1,700.00. The commission would be payable, however, only if the transaction proceeded to closing. It closed during the week ending September 25, 2010. Mr. Gosch reported the earnings then.

Mr. Gosch had received unemployment insurance benefits in the gross amount of \$427.00 for the week ending August 7, 2010. He received no benefits for the week ending September 25, 2010. Nevertheless, the Agency withheld \$427.00 in unemployment insurance benefits to offset the benefits paid for the week ending August 7, 2010.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant was overpaid. He was not.

The claimant reported his earnings during the calendar week in which he was finally certain that the commission would be paid. Especially in the current real estate market, the signing of an

offer of purchase is no guarantee that a transaction will proceed to closing and that an agent will actually receive a commission. It is appropriate to report such earnings during the week of closing, not the week of a signing of the offer to purchase. Furthermore, the claimant has received no benefits for the week ending September 25, 2010.

DECISION:

The unemployment insurance decision dated October 12, 2010, reference 04, is reversed. The claimant has not been overpaid for the week ending August 7, 2010. The Agency shall reimburse the claimant for the benefits offset over several weeks in October 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw