

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NHIAL G YIEN
Claimant

APPEAL NO. 12A-UI-12824-VST

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/16/12
Claimant: Appellant (1)**

Section 96.5-1 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated October 24, 2012, reference 02, which held that the claimant had been overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 27, 2012. This case was heard in conjunction with 12A-UI-12823-VST.

ISSUE:

Whether the claimant has been 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, makes the following findings of fact:

The claimant established an original claim for unemployment insurance benefits with an original claim date of September 16, 2012. The claimant received unemployment insurance benefits in the total amount of \$255.00 for the three weeks between September 16, 2012, and October 6, 2012. On October 15, 2012, the representative issued a decision in which the claimant was disqualified from receiving benefits because he voluntarily quit his job without good cause attributable to the employer. That decision was affirmed by the administrative law judge in 12A-UI-12823-VST.

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 claimant has been overpaid unemployment insurance benefits of \$255.00 for the three weeks between September 16, 2012, and October 6, 2012. He is disqualified from receiving these benefits because he voluntarily quit his job in order to return to school. These benefits, though received in good faith, must now be repaid.

DECISION:

The decision of the representative dated October 24, 2012, reference 02, is affirmed. The claimant has been overpaid unemployment insurance benefits for the three weeks between September 16, 2012, and October 6, 2012. Those benefits must now be repaid.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/jc