

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**AMIR DEDIC  
5110 HICKMAN RD  
DES MOINES IA 50310**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-03387-RT  
OC: 12/21/03 R: 02  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayment of Benefits  
871 IAC 25.16 – State Payment Offset

STATEMENT OF THE CASE:

The claimant, Amir Dedic, filed a timely appeal from an unemployment insurance decision dated March 17, 2006, reference 01, determining that he was overpaid unemployment insurance benefits in the amount of \$1,064.00 and that \$950.47 will be withheld from his Iowa lottery prize, including a \$7.00 transfer fee and \$943.47, which will be offset against his overpayment. After due notice was issued to the claimant at his last-known address for a telephone hearing on April 6, 2006, at 1:00 p.m., the notice of appeal was returned not deliverable as addressed and unable to forward. The claimant does not have a current claim for unemployment insurance benefits and, therefore, Workforce Development records do not have any current addresses for the claimant. The claimant filed his appeal as a result of an

e-mail and the e-mail provided only a telephone number. The administrative law judge twice tried to call the claimant at that telephone number and in both cases reached a voicemail. The first time the administrative law judge called that number was April 5, 2006 at 5:01 p.m. At that time the administrative law judge left a message that the hearing was scheduled at 1:00 p.m. on April 6, 2006 and that the administrative law judge would proceed with the hearing unless the administrative law judge heard from the claimant. The administrative law judge instructed the claimant that if he could not participate he needed to call the administrative law judge and provide a new address. The administrative law judge did not hear from the claimant. The administrative law judge again called the claimant for the hearing at 1:00 p.m. on April 6, 2006 and received the same voicemail. At that time the administrative law judge followed the instructions on the voicemail by requesting a page for the claimant, but the claimant never answered the page. The administrative law judge also left a message for the claimant to call him as soon as possible. In both messages the administrative law judge left a telephone number for the claimant to call. The claimant never called the administrative law judge as of April 20, 2006 at 5:00 p.m. There was no employer or respondent noticed. Accordingly, no hearing was held. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having examined the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on March 17, 2006, determining that the claimant was overpaid unemployment insurance benefits in the amount of \$1,064.00 and that \$950.47 would be withheld from his Iowa lottery prize. \$7.00 of that amount would be applied to a transfer fee and \$943.47 would be applied to the overpayment. By decision dated September 1, 2004, reference 05, the claimant was determined to be overpaid unemployment insurance benefits in the amount of \$1,064.00 between January 4, 2004 and March 20, 2004 because he failed to report wages earned with employers.

#### REASONING AND CONCLUSIONS OF LAW:

The questions presented by this appeal are as follows:

1. Whether the claimant is overpaid \$1,064.00. He is.
2. Whether \$950.47 from his Iowa lottery prize should be withheld and of that amount, \$943.47 applied to his overpayment and \$7.00 applied to a transfer fee. It should.

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 has received unemployment insurance benefits in the amount of \$1,064.00 to which he is not entitled and for which he is overpaid. This arises from the decision dated September 1, 2004, reference 05. This overpayment is because the claimant failed to report wages earned from employers. The claimant did not respond to phone calls or participate in the hearing to provide evidence to the contrary. Accordingly, the administrative law judge concludes that the claimant has received unemployment insurance benefits in the amount of \$1,064.00 to which he is not entitled and he is overpaid such benefits. The administrative law judge further concludes that these benefits must be recovered in accordance with provisions of Iowa law.

The administrative law judge further concludes that the claimant attempted to cash in an Iowa lottery ticket providing him an Iowa lottery prize. Although the claimant did not participate in the hearing, the claimant stated in his appeal that his father won a ticket in the amount of \$1,050.00 and he asked the claimant to "retain the money for him." It appears that the claimant's father actually gave the lottery ticket and, therefore, the cash represented by the lottery ticket, to the claimant. Further, the administrative law judge notes that a lottery ticket is similar to any "bearer" negotiable instrument which means that whoever has possession of the instrument or, in this case, the lottery ticket, is entitled to the money therefore. The claimant is overpaid unemployment insurance benefits. Although the claimant stated that he did not know he was overpaid, this is not credible. The claimant did not respond to any telephone messages nor did he participate in the hearing to provide evidence to the contrary. 871 IAC 25.16 provides for an offset against an overpayment when the individual is owed a payment from the state of at least \$50.00 and owes an overpayment of unemployment insurance benefits of at least \$50.00. This is the situation here. Further, Iowa Code section 8A.504 provides for such setoff for any liability the person owes to a state agency against any claim owed to the person by the state agency. Accordingly, the administrative law judge concludes that from the lottery prize, \$950.47 should be withheld, \$7.00 applied to a transfer fee and \$943.47 applied to the overpayment of unemployment insurance benefits. This is what has occurred and the claimant's present overpayment balance is \$120.53.

#### DECISION:

The representative's decision of March 17, 2006, reference 01, is affirmed. The claimant, Amir Dedic, is overpaid unemployment insurance benefits in the amount of \$1,064.00. \$950.47 should be withheld from his Iowa lottery prize and \$7.00 of that amount applied to the transfer fee of administrative services and \$943.47 applied to his overpayment of unemployment insurance benefits. The balance overpaid is \$120.53.

cs/pjs