

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FREDERICK A PASKER**  
Claimant

**APPEAL NO. 12A-UI-01629-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA DEPARTMENT OF CORRECTIONS/  
FORT MADISON**

**OC: 01/17/10  
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayment  
871 IAC 23.4 – Back Pay Award

**STATEMENT OF THE CASE:**

Claimant appealed a department representative's decision dated February 6, 2012, reference 04, that held he is overpaid benefits \$1,217.00 for a seven-week period ending March 13, 2010, because he received a back pay award from Iowa Department of Corrections. A telephone hearing was held on March 7, 2012. The claimant's wife, Deb Pasker, participated. The employer did not participate.

**ISSUE:**

The issue is whether the claimant is overpaid benefits.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony, and having considered the evidence in the record, finds that: The claimant reached a settlement with the State of Iowa regarding his lay-off and lost wages issue from the Iowa Department of Corrections/Ft. Madison that included the January to March 2010 period. The agreement offset the overpayment of unemployment benefits at issue in this matter and repaid it to the employer as a deduction from the settlement.

The employer failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 NOT overpaid benefits \$1,217.00. The unemployment benefit paid to claimant for the seven-week period ending March 13, 2010 was repaid as an offset by a settlement agreement with the employer. The overpayment has been satisfied. In essence, the department is attempting to make a collection for something that has been repaid.

**DECISION:**

The decision of the representative dated February 6, 2012, reference 04, is reversed. The claimant is not overpaid benefits \$1,217.00.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs