

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

DANNY D MYERS  
38 AVE "A"  
DENISON IA 51442

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-04878-CT  
OC: 01/25/04 R: 01  
Claimant: Appellant (4)

**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

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated April 21, 2004, reference 04, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$526.00 as a result of a disqualification decision. A telephone hearing was scheduled to be held on May 24, 2004, pursuant to due notice. Because the checks representing the overpayment amount had been cancelled, there was no need for a hearing.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now

been affirmed because the appeal was withdrawn. However, the overpayment represents checks that were cancelled before being sent to Mr. Myers.

#### REASONING AND CONCLUSIONS OF LAW:

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 not been overpaid unemployment insurance benefits in the amount of \$526.00 pursuant to Iowa Code Section 96.3-7 as the checks for the two weeks ending March 27, 2004 were cancelled. However, any money withheld to pay taxes would have to be refunded to Iowa Workforce Development as those monies cannot be retrieved from the taxing authorities.

#### DECISION:

The decision of the representative dated April 21, 2004, reference 04, is modified. The claimant has not been overpaid unemployment insurance benefits in the amount of \$526.00. He currently has an overpayment of \$78.90 representing taxes paid on his behalf.

cfc/b