

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORY L FROST**  
Claimant

**APPEAL NO. 11A-UI-12078-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC:11/30/08**  
**Claimant: Appellant (1)**

Section 96.3-7 – Overpayment of Benefits  
Section 96.19-18b(1) – Localization of Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated September 7, 2011, reference 02, which held claimant had been overpaid \$1444.00 in unemployment insurance benefits for the four weeks between December 7, 2008, and January 3, 2009. After due notice, a telephone conference hearing was scheduled for and held on October 27, 2011. Claimant participated. This case was heard in conjunction with 11A-UI-12077-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 a claim for unemployment insurance benefits in Iowa with an original claim date of November 30, 2008. This claim was based on wages that should have been reported in Wisconsin, not in Iowa. The administrative law judge affirmed the redetermination dated February 1, 2010, in 11A-UI-12077-VST. The claimant received \$1,444.00 in Iowa benefits for the four weeks between December 7, 2008, and January 3, 2009.

**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 evidence established that the claimant received \$1,444.00 in unemployment insurance benefits for the four weeks between December 7, 2008, and January 3, 2009. These benefits were paid on wages that were erroneously reported in Iowa and should have been reported in Wisconsin. Even though the claimant received these benefits in good faith, those benefits must be repaid.

The claimant testified that he should not be required to repay these benefits because he had "paid in" for those benefits and that the money had been spent. Claimants do not make personal contributions to fund their unemployment insurance benefits. Unemployment insurance benefits are funded by employers, not claimants. Benefits must be repaid if paid in error even when the benefits have been spent by the recipient and even when the claimant does not do anything wrong.

**DECISION:**

The decision of the representative dated September 7, 2011, reference 02, is affirmed. The claimant has been overpaid \$1,444.00 in unemployment insurance benefits. Those benefits must be repaid.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs