

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY F JANSEN

Claimant

APPEAL NO. 14A-UI-03778-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/14/02

Claimant: Appellant (4)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 421.17(29) – Offset of State Income Tax Refund
871 IAC 25.16 – Offset of State Income Tax Refund

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 13, 2014, (reference 06) unemployment insurance decision that withheld his and his wife's joint Iowa State tax refund to apply to an overpayment the he owed Iowa Workforce Development. After due notice was issued, a hearing could be held on April 29, 2014. The record was re-opened an additional testimony and exhibits taken on June 5, 2014. The claimant did participate along with his wife, Dana L. Jansen. Official notice was taken of Iowa Workforce Development wage records for both the claimant and his wife. Department's Exhibit D-1 was entered and received into the record. The exhibit, the joint tax filing was redacted to eliminate the social security numbers of the claimant, his wife and dependent.

ISSUE:

Was the claimant's income tax split proportionately between he and his wife?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant and his wife are entitled to a joint state of Iowa income tax refund for the tax year 2013 of \$1,423.00. Agency wage records indicate that the claimant earned 35 percent of the couple's joint wage income. His wife's wage earnings amounted to 65% of their income from wages. However, agency records do not reflect that the claimant also received an additional \$12,000.00 in pension income for the tax year. The Iowa Department of Revenue determined that the taxes if figured separately for each would result in a tax liability of \$700.00 for the claimant and a credit of \$1,800.00. The tax liability for his spouse would be \$1,900.00 with a credit of \$2,300.00. After a request by the claimant and his wife to have their income tax refund proportionally split; the agency refunded to them \$498.05 dollars or roughly 35 percent of the refund amount and kept \$1,079.00 or roughly 65 percent of the refund amount. The claimant alleges that as his wife earned the greater portion of the refund, she should have been refunded her proportionate share of the income tax refund. After considering the totality of the circumstances, including that the claimant had substantial pension income, it is clear that the tax liability and credit assessed in light of the pension income makes the split equitable if the taxes

had been calculated separately. The proportionate calculation is made based upon all of the tax filing considerations not just the wages earned by each spouse.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Iowa Department of Revenue and Finance correctly split the joint tax refund between the claimant and his spouse.

871 IAC 25.16 specifically authorizes the Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits which that same claimant owes to the Iowa Workforce Development Department so long as both amounts are at least \$50.00. The claimant owes the Iowa Workforce Development Department \$4,622.94 in benefits he received in 2002 to which he was not entitled and he has an Iowa income tax refund of at least \$50.00. The agency is required to proportionally split the tax refund based upon the spouse's tax filing. The Iowa Department of Revenue and Finance clearly considered all aspects of the claimant and his wife's tax return, not only the wages earned from each respective employer. The tax refund has been correctly split based upon the wages and pension earned by the claimant and his entitlement to credits and his tax liability. Therefore, the Iowa Workforce Development Department is legally authorized to withhold the proportionate share belonging to the claimant or \$1,072.00.

DECISION:

The representative's decision dated March 13, 2014, (reference 06) is affirmed. The Iowa Workforce Development Department has legal authority to withhold the claimant's proportionate share of the Iowa income tax refund owed to the claimant to apply to the overpayment of benefits, which that individual owes to the Iowa Workforce Development Department. The proportionate share has been correctly calculated by the Iowa Department of Revenue and Finance.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css