

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES A KERWIN
Claimant

APPEAL NO. 17A-UI-09274-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/06/17
Claimant: Appellant (2)

Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

James Kerwin filed a timely appeal from the September 6, 2017, reference 03, decision that held he was overpaid \$788.00 in benefits for two weeks between August 6, 2017 and August 26, 2017, based on an earlier decision disqualified him for benefits in connection with his discharge from M. G. Waldbaum Company. After due notice was issued, a hearing was commenced on September 27, 2017 and concluded on October 4, 2017. The hearing in this matter was consolidated with the hearing in Appeal Number 17A-UI-09273-JTT. Mr. Kerwin participated. Exhibits 1 through 6 were received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant. The hearing had to be adjourned on September 27, 2017 because Mr. Kerwin has not received the employer's exhibits.

ISSUE:

Whether Mr. Kerwin was overpaid \$788.00 in benefits for two weeks between August 6, 2017 and August 26, 2017, based on an earlier decision disqualified him for benefits in connection with his discharge from M. G. Waldbaum Company.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: James Kerwin established an original claim for unemployment insurance benefits that was effective August 6, 2017. Mr. Kerwin received \$394.00 in benefits for the week that ended August 12, 2017. Mr. Kerwin received \$394.00 in benefits for the week that ended August 26, 2017. The total amount of benefits disbursed to Mr. Kerwin in connection with the claim was \$788.00. On September 1, 2017, a Workforce Development claims deputy entered a reference 02 decision that disqualified Mr. Kerwin for benefits, based on the claims deputy's conclusion that Mr. Kerwin was discharged on July 12, 2017 for being intoxicated on the job. The September 1, 2017, reference 02, decision prompted the overpayment decision from which Mr. Kerwin appeals in the present matter. The September 1, 2017, reference 02, decision has been reversed in Appeal Number 17A-UI-09273-JTT.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recovery the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because the decision that disqualified Mr. Kerwin for benefits and that prompted the overpayment decision has been reversed on appeal, the administrative law judge concludes that Mr. Kerwin was not overpaid \$788.00 in benefits for two weeks between August 6, 2017 and August 26, 2017.

DECISION:

The September 6, 2017, reference 03, decision is reversed. The claimant was not overpaid \$788.00 in benefits for two weeks between August 6, 2017 and August 26, 2017,

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs