

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN A HOSS
Claimant

APPEAL NO. 09A-UI-00238-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

**OC: 10/26/08 R: 02
Claimant: Appellant (2)**

Iowa Code section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

Susan Hoss filed a timely appeal from the December 30, 2008, reference 03, decision that she was overpaid \$1,083.00 in benefits for the three-week period of November 2, 2008 through November 21, 2008. After due notice was issued, a hearing was held on January 21, 2009. Ms. Hoss participated. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 09A-UI-00237-JTT, and the administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether Ms. Hoss was overpaid \$1,083.00 in benefits for the three-week period of November 2, 2008 through November 22, 2008

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hoss established a claim for unemployment insurance benefits that was effective October 26, 2008. Ms. Hoss received \$1,083.00 in benefits for the three-week period of November 2, 2008 through November 22, 2008. The overpayment issue on appeal in this matter was prompted by the December 30, 2008, reference 02, decision that concluded Ms. Hoss was not eligible for benefits for the four-week period of October 26, 2008 through November 22, 2008, due to receipt of severance pay or the equivalent. The reference 02 decision has been reversed on appeal. See Appeal Number 09A-UI-00237-JTT.

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.

Because the decision that prompted the overpayment decision has been reversed on appeal, the administrative law judge concludes that Ms. Hoss was not overpaid \$1,083.00 in benefits for the three-week period of November 2, 2008 through November 22, 2008.

DECISION:

The Agency representative's December 30, 2008, reference 03, decision is reversed. The claimant was not overpaid \$1,083.00 in benefits for the three-week period of November 2, 2008 through November 22, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw