

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAUL P KHAI**  
Claimant

**APPEAL NO: 14A-UI-05218-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACOBSON STAFFING COMPANY**  
Employer

**OC: 10/20/13**  
**Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Paul P. Khai (claimant) appealed a representative's May 15, 2014 decision (reference 03) that concluded he had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 30, 2014. The claimant participated in the hearing. Benjamin Aung served as interpreter. A review of the Appeals Section's conference call system indicates that Jacobson Staffing Company (employer) failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant overpaid unemployment insurance benefits of \$668.00?

**FINDINGS OF FACT:**

A representative issued a decision dated March 24, 2014 (reference 02) that concluded the claimant was disqualified from receiving benefits effective February 23, 2014 because he was not able and available for work. The claimant appealed that decision and a hearing on that appeal was held before another administrative law judge on April 17, 2014 under 14A-UI-03281-DWT. That judge issued her decision on that appeal on April 21, 2014, concluding that the representative's disqualification decision was correct and that the claimant was not able and available for other work or eligible to receive unemployment insurance benefits for the period from February 23 through March 8.

The claimant appealed that judge's decision to the Employment Appeal Board. On June 4, 2014 the Board issued its decision affirming the judge's decision in 14A-UI-03281-DWT. As of the date of the hearing in the current appeal, the claimant has not further appealed the Board's decision.

The overpayment decision was issued in this case as a result of the March 24, 2014 (reference 02) disqualification decision, as initially affirmed by the other judge's decision in 14A-UI-03281-DWT, and now affirmed also by the Board.

The claimant established a claim for unemployment insurance benefits effective October 20, 2013. He reopened the claim by filing an additional claim effective February 23, 2014. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$668.00, as a result of weekly continued claims filed for the benefit weeks March 1 and March 8, 2014. It is possible that the claimant had not intended to make weekly continued claims for both weeks, but weekly continued claims for both weeks were in fact filed and paid.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is overpaid benefits of \$668.00.

An underlying disqualification can result in an overpayment of unemployment insurance benefits. The underlying disqualification as determined by the representative's decision which was issued in the representative's March 24, 2014 (reference 02) has been affirmed upon appeal in the administrative law judge's decision issued on April 21, 2014 under 14A-UI-03281-DWT and by the Board's decision issued on June 4, 2014. If the claimant had a dispute with whether or not he should have been disqualified effective February 23, 2014, then he would need to appeal further from the Board's decision within the appeal period for that decision. Iowa Code § 96.6-2; *Beardslee v. Iowa Department of Job Service*, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification is not subject to review in this case.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits.

The administrative law judge concludes that the claimant is overpaid benefits of \$668.00 pursuant to Iowa Code § 96.3-7 due to the disqualification decision issued on March 24, 2014 as affirmed on appeal. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's May 15, 2014 decision (reference 03) is affirmed. The claimant is overpaid benefits of \$668.00.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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