

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**MELINDA J SCHLESENER
5463 RIVERVIEW RD
THOMSON IL 61285**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-08065-DT
OC: 05/23/04 R: 04
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Melinda J. Schlesener (claimant) appealed a representative's July 23, 2004 decision (reference 03) that concluded she 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 August 17, 2004. This appeal was consolidated for hearing with one related appeal, 04A-UI-08064-DT. The claimant participated 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 reversing the representative's decision.

FINDINGS OF FACT:

A representative issued a decision dated July 22, 2004 (reference 02) that concluded the claimant was disqualified from receiving benefits in connection with her employment with Employer's Service Bureau, Inc. (employer). The claimant timely appealed that decision and in the concurrently issued decision in appeal 04A-UI-08064-DT, that decision has been modified to change some of the disqualification.

The overpayment decision was issued in this case as a result of the July 22, 2004 (reference 02) disqualification decision.

The claimant established an unemployment insurance benefit year effective May 23, 2004. Her weekly benefit amount was calculated to be \$173.00. For the weeks in question, the claimant received the following benefits:

Week Ending	Wages Reported	Benefits Paid
07/03/04	\$53.00	\$163.00
07/10/04	\$0.00	\$173.00
07/17/04	\$0.00	\$173.00

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$509.00.

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.

The administrative law judge concludes that the claimant is not overpaid \$509.00 in benefits due to the disqualification decision issued on July 22, 2004 (reference 02), which has now been modified. Rather, since the disqualification as modified became effective the week ending July 17, 2004, the amount of the overpayment is \$173.00.

DECISION:

The representative's July 23, 2004 decision (reference 03) is modified in favor of the claimant. The claimant is overpaid benefits, but the amount is reduced to \$173.00.

ld/kjf