

**IOA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EARL L GINGERICH**  
Claimant

**APPEAL NO. 13A-UI-05419-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 02/03/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed the May 8, 2013 (reference 05), decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$391.00 for the one week period ending April 27, 2013 as a result of an ineligibility (vacation pay deduction) decision. A telephone hearing was held on June 13, 2013, pursuant to due notice and agreement of the parties. The claimant participated.

**ISSUE:**

Is the claimant overpaid benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by an ineligibility decision that has now become final. Claimant did receive benefits in the gross amount of \$391.00.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

Iowa Code § 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$391.00 pursuant to Iowa Code § 96.3(7) as the ineligibility decision that created the overpayment decision has become final.

**DECISION:**

The May 8, 2013 (reference 05) decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the gross amount of \$391.00 to which he was not entitled and those benefits must be recovered in accordance with Iowa law. If the claimant believes he did not receive the benefits in question either by VISA debit card or direct deposit, he should take his bank records and the VISA card to the local office to begin an investigation.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/css