

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES E YOUNG
Claimant

APPEAL NO. 13A-UI-06600-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/15/12
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated May 24, 20, reference 06, that held he is overpaid benefits \$5,600.00 for the 14 weeks ending February 2, 2013 due to a department May 21 decision that held he was not eligible for emergency unemployment compensation in Iowa. A hearing was held on June 27, 2013. The claimant participated.

ISSUE:

The issue is whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: Claimant filed an Iowa unemployment claim effective April 15, 2012, and he exhausted his regular benefits. Claimant filed an emergency unemployment compensation claim in the state of Iowa effective October 28 and received benefits totaling \$5,600.00 for a 14-week period ending February 2, 2013. The department issued a decision dated May 21, 2013 reference 05 that held he was not eligible for those benefits that caused claimant overpaid the amount he received. The decision has been affirmed (Appeal No. 13A-UI-06599-ST).

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 is overpaid benefits \$5,600.00 due to a department decision that has been affirmed. The department issued a decision claimant was not eligible for the emergency unemployment compensation benefits he had received that caused the overpayment. The decision has been affirmed in Appeal No. 13A-UI-06599-ST.

DECISION:

The decision of the representative dated May 24, 2013 reference 06, is affirmed. The claimant is overpaid benefits \$5,600.00.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css