

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMY J ROEDER**  
Claimant

**APPEAL NO. 07A-UI-02746-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/07/07 R: 03  
Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Amy J. Roeder (claimant) appealed a representative's March 8, 2007 decision (reference 02) 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 April 6, 2007. The claimant participated in the hearing. This appeal was consolidated for hearing with one related appeal, 07A-UI-02746-DT. 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 is overpaid benefits of \$1,002.00?

**FINDINGS OF FACT:**

A representative issued a decision dated February 13, 2007 (reference 01) that concluded the claimant was disqualified from receiving benefits after a separation from employment from Hy-Vee, Inc. (employer). As determined in the concurrently issued decision in appeal 07A-UI-02745-DT, the claimant did not timely appeal that decision and it has now become final.

The overpayment decision was issued in this case as a result of the February 13, 2007 (reference 01) disqualification decision.

The claimant established a claim for unemployment insurance benefits effective January 7, 2007. The claimant has received unemployment insurance benefits after the separation from employment in the amount of \$1,002.00.

**REASONING AND CONCLUSIONS OF LAW:**

If a disqualification decision is issued against a claim but not reversed on appeal, benefits that might have been paid prior to issuance of the disqualification are overpaid and subject to repayment.

Iowa Code § 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

Iowa Code § 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 claimant did not timely appeal the decision that caused the overpayment in this case. If the claimant had a dispute with whether or not she should have been disqualified as a result of the separation from the employer, then she needed to have filed an appeal from that decision within the appeal period for that decision. The decision causing the disqualification has now become final and is not subject to review in this case. Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979).

The administrative law judge concludes that the claimant is overpaid benefits of \$1,002.00 pursuant to Iowa Code § 96.3-7 due to the disqualification decision issued on February 13, 2007. 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 March 8, 2007 decision (reference 02) is affirmed. The claimant is overpaid benefits of \$1,002.00.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/kjw