

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES J RANEK
Claimant

APPEAL NO. 10A-UI-09057-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/26/09
Claimant: Appellant (1)

Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 16, 2010, reference 03, which held claimant had been overpaid the sum of \$6,467.00 in emergency unemployment compensation benefits in Iowa. After due notice, a telephone conference hearing was scheduled for and held on August 28, 2010. Claimant participated. The record consists of the testimony of James Ranek. Official notice is taken of agency records. This case was heard in conjunction with 10A-UI-09056-VST.

ISSUE:

Whether the claimant has been overpaid emergency unemployment insurance benefits in Iowa and if so, the amount of the overpayment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

On February 9, 2009, a representative issued a decision that held that the claimant was not eligible for emergency unemployment compensation benefits on his Iowa unemployment insurance claim effective April 26, 2009. That decision was not timely appealed by the claimant and was affirmed in an administrative law judge decision 10A-UI-09056-VST.

Agency records show the following amounts were overpaid to the claimant:

10/31/09 – 01/20/10	\$4163.00	EUCU TIER ONE
01/31/10 – 01/30/10	\$ 277.00	EUCU TIER TWO
04/24/10 ---05/22/10	\$1552.00	EUCU TIER THREE
10/31/09 – 01/23/10	\$ 325.00	STIMULUS
01/30/10 – 01/30/10	\$ 25.00	STIMULUS
04/24/10 –05/22/10	\$ 125.00	STIMULUS

The total of the overpaid benefits is \$6,467.00.

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 evidence in this case established that the claimant was overpaid and received the sum of \$6,467.00 in emergency unemployment benefits in Iowa to which he was not entitled. The claimant believes that he should not have to repay these benefits because he received them in good faith and a computer should have flagged the problem before he was ever paid. Even though the claimant applied for and received the benefits in good faith, he did receive benefits to which he was not entitled. These benefits must be repaid accordingly to law.

DECISION:

The decision of the representative dated June 16, 2010, reference 03, is affirmed. The claimant has been overpaid the sum of \$6,467.00 in emergency unemployment benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs