

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

ZLATKO KLARIC  
4542 – 50<sup>TH</sup>  
DES MOINES IA 50310

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 06A-UI-04433-DT  
OC: 01/01/06 R: 02  
Claimant: Appellant (2/R)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Zlatko Klaric (claimant) appealed a representative's March 21, 2006 decision (reference 06) that concluded he 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 May 11, 2006. This appeal was consolidated for hearing with one related appeal, 06A-UI-04432-DT. The claimant participated in the hearing. Zijo Sucasca served as interpreter. 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 March 10, 2006 (reference 05) that concluded the claimant was disqualified from receiving benefits as of January 29, 2006, due to a failure to respond to a notice to report. As determined in the concurrently issued decision in appeal 06A-UI-04432-DT, that decision has been reversed.

The overpayment decision was issued in this case as a result of the March 10, 2006 (reference 05) disqualification decision.

The claimant filed weekly claims and received his weekly benefit amount for each week through the week ending February 25, 2006. The claimant presented evidence during the hearing that he had in fact begun full time employment with a new employer on February 20, 2006, had worked 40 hours, and had been paid \$346.00 in wages for that week with a paycheck issued on March 2, 2006. He did not report those earnings on his weekly claim for the week ending March 28, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$652.00.

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 benefits due to the disqualification decision issued on March 10, 2006 (reference 05), which has now been reversed.

An issue as to whether the claimant was overpaid benefits at least for the week ending February 25, 2006, due to the receipt of unreported wages arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative's March 21, 2006 decision (reference 06) is reversed. The claimant is not overpaid benefits due to the failure to report. The matter is remanded to the Quality Control Section for investigation and determination of the unreported wage issue.

ld/kkf