

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFERY A MORIN**  
Claimant

**APPEAL NO: 11A-UI-14000-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/08/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits  
Iowa Code § 96.3(7)b – Waiver of Overpayment

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's October 10, 2011 determination (reference 05) that held he had been overpaid \$2075 in benefits he received between January 17 and March 6, 2010. The overpayment occurred after an administrative law judge reversed the initial February 12, 2010 determination that held the claimant eligible to receive benefits. The claimant participated in the November 21 hearing. Exhibit One was offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant has been overpaid and is not eligible for a waiver of the overpayment.

**ISSUES:**

Has the claimant been overpaid benefits he received between January 17 and March 6, 2010?

Is the claimant eligible for a waiver of the overpayment?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of March 8, 2009. He established a new benefit year during the week of September 5, 2010.

The claimant filed claims for the weeks ending January 23 through March 6, 2010. He received a total of \$2075 in Emergency Unemployment Compensation benefits and the government's economic stimulus benefits for these weeks.

The claimant and the employer's representative participated in a fact-finding interview that related to the claimant's January 18, 2010 employment separation. For the fact-finding interview, the employer provided a verbal account and documents to explain the reasons for the claimant's employment separation. (Exhibit One.) On February 12, 2010, a representative issued a determination that held the claimant qualified to receive benefits. The employer appealed the representative's determination.

A hearing was held before an administrative law judge on April 9, 2010. The claimant and the employer participated at the hearing. Based on the evidence presented during the hearing, the administrative law judge disqualified the claimant from receiving benefits as of January 18, 2010. See decision for 10A-EUCU-00144-JTT. The claimant appealed the administrative law judge's decision to the Employment Appeal Board on October 17, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Iowa Code § 96.3(7)b.

Based on the decision for appeal 10A-EUCU-00144-JTT, the claimant is not legally entitled to receive benefits for the weeks ending January 23 through March 6, 2010. He has been overpaid a total of \$2075 in benefits he received for these weeks. The claimant is not at fault in receiving the overpayment.

Since the employer participated in the fact-finding interview, the claimant is not eligible for a waiver of the overpayment.

The administrative law judge recognizes that the claimant appealed the administrative law judge's 10A-EUCU-00144-JTT decision to the Employment Appeal Board in October 2011. If the administrative law judge's decision is reversed, the claimant will be legally entitled to receive benefits for the weeks in question. He then would not be overpaid any benefits.

**DECISION:**

The representative's October 10, 2011 determination (reference 05) is affirmed. Based on an administrative law judge's 10A-EUCU-00144-JTT decision that has not been reversed as of the date of this decision, the claimant has been overpaid \$2075 in benefits he received for the weeks ending January 23 through March 6, 2010. Even though the claimant is not at fault in receiving the overpayment, he is not eligible for a waiver of the overpayment.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/kjw