

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALINE P VAN GINKEL
Claimant

APPEAL NO. 14A-UI-09572-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/10/14
Claimant: Appellant (2)**

Iowa Code § 96.4-3 – Able and Available
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 9, 2014, reference 04, which held claimant not able and available for work. After due notice, a hearing was scheduled for October 7, 2014. No hearing was held due to decisions as referenced, numbers 06 and 07.

ISSUE:

The issues in this matter are whether claimant is able and available for work and overpaid unemployment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: In this matter, reference numbered decisions 06 and 07 have reversed the findings of not being able and available for work and the finding of an overpayment. This case is hereby moot.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code § 96.3-7 provides in pertinent part:

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. . . .

Since subsequent decisions have been issued that reverse the denial of benefits and overpayment and as such this case is moot.

DECISION:

The decision of the representative dated September 9, 2014, reference 04, is reversed and held moot. The subsequent decisions correct the denial of benefits and the overpayment. Reference numbers 06 and 07 are held controlling.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/can