

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LANE A SCHMIDT
Claimant

APPEAL NO: 13A-UI-07562-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/17/13
Claimant: Appellant (1)**

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 12, 2103 determination (reference 03) that held him overpaid \$2,77.002 in benefits he received between March 17 and May 4, 2013. The overpayment occurred as the result of an administrative law judge's May 30, 2013 decision that reversed an earlier determination that held the claimant eligible to receive benefits. The claimant participated at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant has been overpaid benefits he received between March 17 and May 4, 2013, if the Employment Appeal Board affirms the administrative law judge's May 30, 2013 decision.

ISSUES:

Has the claimant been overpaid \$2,772.00 in benefits?

Is the claimant required to pay back any overpayment of benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of March 17, 2013. He filed claims for the weeks ending March 23 through May 4, 2013. The claimant received his maximum weekly benefit amount of \$396.00 for each of these weeks.

In mid-April, a claims specialist contacted the claimant and employer, The University of Iowa, and asked why or how the claimant's employment ended. The employer participated at the fact-finding interview. Based on the information provided by the employer and the claimant, an April 17, 2013 determination (reference 02) held the claimant qualified to receive benefits. The employer appealed this determination.

Both the claimant and employer participated at a hearing before an administrative law judge. Based on the evidence presented at the hearing, an administrative law judge reversed the April 17 determination and concluded in a May 30, 2013 decision that the claimant was not qualified to receive benefits. See decision for appeal 13A-UI-04731-NT. The claimant appealed

this decision to the Employment Appeal Board. As of July 9, the Employment Appeal Board had not issued a decision in this matter.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance 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. 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. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3(7)b.

In this case, the initial determination held the claimant qualified to receive benefits. Later, an administrative law judge reversed the initial determination and held the claimant was not qualified to receive benefits. Based on the decision for 13A-UI-0473-NT1, the claimant has been overpaid \$2,722.00 in benefits he received for the weeks ending March 23 through May 4, 2013, if the Employment Appeal Board does not reverse the administrative law judge's May 30, 2013 decision.

The claimant is not at fault in receiving the overpayment. Since the employer participated at the initial proceeding, the claimant is required to pay back \$2,772.00 in benefits he received unless the Employment Appeal Board reverses the administrative law judge's May 30, 2013 decision. If the Employment Appeal Board reverses the administrative law judge's decision, the claimant will not be overpaid any benefits.

DECISION:

The representative's June 12, 2013 determination (reference 03) is affirmed if the Employment Appeal Board does not reverse the decision for appeal 13A-UI-04731-NT. Based on the administrative law judge's decision, the claimant is not legally entitled to receive benefits as of March 17, 2013. If the Employment Appeal Board does not reverse the administrative law judge's decision, the claimant has been overpaid \$2,722.00 in benefits he received for the weeks ending March 23 through May 4, 2013. The claimant is required to pay back the overpayment of benefits even though he is not at fault in receiving the overpayment. If the Employment Appeal Board reverses the decision for appeal 13A-UI-04731-NT, the claimant will not be overpaid any benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css