

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LACEY M AMLING
Claimant

APPEAL NO: 10A-UI-02885-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/11/09
Claimant: Appellant (1)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Lacey M. Amling (claimant) appealed a representative's February 12, 2010 decision (reference 02) that concluded she had been overpaid unemployment insurance benefits. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on April 10, 2010. The claimant received the hearing notice and responded by calling the Appeals Section on March 19, 2010. She indicated that she would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, the claimant was not available; therefore, she did not participate in the hearing. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant is overpaid unemployment insurance benefits of \$2,744.00?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits effective October 11, 2009. A notice of claim was sent to the employer, Leedz, Inc., and the employer protested the claim. A fact-finding interview was conducted with a Claims representative on October 27, 2009. The claimant declined to participate personally in the interview, but submitted a written statement in lieu of personal participation. The employer personally participated in the interview and submitted some documentary information. Following the interview, the representative issued a decision dated November 3, 2009 (reference 03) that concluded the claimant was eligible to receive benefits based on the facts of the separation.

The employer appealed the representative's decision. A hearing before an Appeals administrative law judge was conducted on December 14, 2009. Both parties personally participated in the appeal hearing with witnesses. On December 16, 2009 that judge issued a decision in appeal 09A-UI-16833-BT which reversed the representative's decision and found the facts of the separation were disqualifying as to the claimant. The claimant did not appeal that decision to the Employment Appeal Board and it has now become final.

The overpayment decision was issued in this case as a result of the December 16, 2009 administrative law judge's decision in 09A-UI-16833-BT reversing the November 3, 2009 (reference 01) representative's decision.

The claimant received unemployment insurance benefits after the separation from employment in the amount of \$2,744.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$2,744.00.

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. Iowa Code § 96.3-7. The claimant did not appeal the administrative law judge's decision issued under 09A-UI-16833-BT, which found the separation to be disqualifying, leading to the overpayment in this case. If the claimant had a dispute with whether or not she should have been disqualified as a result of the separation from the employer, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification has now become final and is not subject to further review in this case.

Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law. The administrative law judge concludes that the claimant is overpaid benefits of \$2,744.00 pursuant to Iowa Code § 96.3-7.

DECISION:

The representative's February 12, 2010 decision (reference 02) is affirmed. The claimant is overpaid benefits of \$2,744.00.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css