

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

LAURA M FUGATE  
1267 - 34<sup>TH</sup> ST NE  
CEDAR RAPIDS IA 52402

**IOWA WORKFORCE DEVELOPMENT**

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**Appeal Number:** 05A-UI-00633-JTT  
**OC:** 12/05/04 **R:** 03  
**Claimant:** Appellant (1)

**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, 4th 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

STATEMENT OF THE CASE:

Laura Fugate filed a timely appeal from the January 14, 2005, reference 03, decision that she had been overpaid benefits. After due notice was issued, a hearing was held on February 10, 2005. Ms. Fugate participated in the hearing with the assistance of Attorney Thomas Ochs. The hearing was held in conjunction with appeal number 05A-UI-00632-JTT. The administrative law judge hereby takes judicial notice of the decision filed in 05A-UI-00632-JTT.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Laura Fugate established a claim for benefits that was effective December 5, 2004. Ms. Fugate subsequently received benefits for the benefit weeks that ended December 11, 18, 25, 2004 and January 1, 2005, in the total amount of \$1,184.00.

The administrative law judge concluded in appeal number 05A-UI-00632-JTT that Ms. Fugate's voluntary quit was without good cause attributable to the employer and that she was therefore disqualified for benefits in connection with her separation from employment on December 24, 2003.

#### REASONING AND CONCLUSIONS OF LAW:

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.

Based on the decision the administrative law judge entered in appeal number 05A-UI-00632-JTT that Ms. Fugate's voluntary quit was without good cause attributable to the employer, and that she was therefore disqualified for benefits, the \$1,184.00 in benefits that Ms. Fugate has received constitutes an overpayment of benefits. Ms. Fugate will have to repay benefits of \$1,184.00.

#### DECISION:

The January 14, 2005, reference 03, decision is affirmed. The claimant is overpaid benefits in the total amount of \$1,184.00.

jt/s