

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JANICE S ANDERSON Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 12A-UI-08143-VST ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 12/04/11 Claimant: Appellant (1)</div>
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Section 96.5-2-a – Discharge for Misconduct
Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated June 28, 2012, reference 02, which held that the claimant was overpaid unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 9, 2012. The claimant participated personally. The record consists of the testimony of Janice Anderson. Official notice is taken of agency records.

ISSUE:

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for unemployment insurance benefits with an original claim date of December 4, 2011. She received unemployment benefits for eight weeks between December 4, 2011, and February 4, 2011, in the total amount of \$1,813.00. A hearing was held before an administrative law judge on February 9, 2012. The administrative law judge disqualified the claimant from receiving benefits in a decision dated February 10, 2012. The claimant did not appeal this decision to the Employment Appeal Board and it is a final decision.

The employer participated in the fact finding process.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The evidence in this case established that the claimant received eight weeks of unemployment insurance benefits in the amount of \$1,813.00. She was later disqualified from receiving those benefits by a decision of an administrative law judge. Iowa law requires that those benefits now be repaid.

DECISION:

The representative's decision dated June 28, 2012, reference 02, is affirmed. The claimant received eight weeks of unemployment benefits in the total amount of \$1,813.00 to which she was not entitled. Those benefits must now be repaid.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw