

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEN L BENNETT
Claimant

APPEAL NO. 12A-UI-00714-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/02/11
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayments
871 IAC 24.50(7) – Waiver of Overpayments

STATEMENT OF THE CASE:

Ben L. Bennett filed a timely appeal from an unemployment insurance decision dated January 17, 2012, reference 02, that ruled he had been overpaid Emergency Unemployment Compensation totaling \$1,624.00 for the four weeks ending January 7, 2012. After due notice was issued, a telephone hearing was held February 16, 2012 on a consolidated record with 12A-UI-00713-AT.

ISSUE:

Must the claimant repay the benefits he has received?

FINDINGS OF FACT:

Ben L. Bennett received Emergency Unemployment Compensation in the gross amount of \$1,624.00 for the four weeks ending January 7, 2012. The fact-finding decision ruling that he was not eligible for those benefits has been affirmed by administrative law judge and decision 12A-UI-00713-AT. The benefits have been recovered. The overpayment occurred because Mr. Bennett chose not to file a Wisconsin combined wage claim effective December 11, 2011 although he was monetarily eligible to do so.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 requires that benefits paid by the agency in error be repaid, even if the individual who has received the benefits is not at fault for the overpayment. It is clear from the evidence that Mr. Bennett received Emergency Unemployment Compensation benefits that he should not have received. He owes nothing more to the agency because the overpayment has been recovered from state benefits on his claim filed effective January 1, 2012.

A provision of the Iowa Administrative Code, 871 IAC 24.50(7) allows the waiver of an Emergency Unemployment Compensation overpayment in some circumstances. In order to receive a waiver, an individual must establish that the overpayment was not caused by the

individual. The evidence in this record establishes that Mr. Bennett knew that he was monetarily eligible for state benefits through Wisconsin effective December 11, 2011 but chose not to file that claim, electing instead to open a new Iowa benefit year effective January 1, 2012. (Mr. Bennett could not have opened a new Iowa benefit year earlier since his previous benefit year had begun January 2, 2011). The evidence establishes that Mr. Bennett knew that the Emergency Unemployment Compensation overpayment would have been repaid through Wisconsin had he filed the Wisconsin claim. Since he elected not to file the Wisconsin claim, the administrative law judge concludes that Mr. Bennett caused the overpayment. Waiver is not appropriate under these circumstances.

DECISION:

The unemployment insurance decision dated January 17, 2012, reference 02, is affirmed. The claimant was overpaid \$1,624.00 for the four weeks ending January 7, 2012. The overpayment has been recovered. He owes no more to the agency at this time. The overpayment cannot be waived.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs