

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 08-IWDUI-087  
**OC:** 11/11/07  
**Claimant:** Appellant (4)

**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, 4<sup>th</sup> 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.

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**AMANDA J CHRISTENSEN**  
**348 SCOTT STREET**  
**COUNCIL BLUFFS IA 51503-0755**

**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.

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATION AND RECOVERY**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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 the Department . 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.

DAN ANDERSON, IWD

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(Administrative Law Judge)

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June 27, 2008

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(Decision Dated & Mailed)

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**Section 96.3-7 - Recovery of Overpayments**

**STATEMENT OF THE CASE:**

The claimant filed an appeal from an Iowa Workforce Development decision dated May 22, 2008, reference 03, which held that the claimant was overpaid unemployment benefits in the amount of \$102.00, because she incorrectly reported wages earned with CASH Inc.

After due notice was issued, a hearing was held by telephone conference call on June 23, 2008. The claimant did not participate. Iowa Workforce Development, Investigation and Recovery,

participated by John Doidge, Investigator. Department Exhibit One was received as evidence.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having examined all of the evidence in the record, finds that: The claimant filed a claim for unemployment benefits with an effective date of November 11, 2007. After the department audited the claimant's claim for the fourth quarter, it determined by a department decision that the claimant was overpaid benefits \$102 for the week ending November 17, 2007.

After the claimant appealed, Investigator Doidge re-checked with the employer (Taco Johns), and he received corrected wage information from the employer that the claimant had earnings of \$91.10 for the week ending November 17, not \$408, as it earlier reported. Doidge corrected the department audit to reflect the claimant was overpaid \$1, not \$402 for the week.

The claimant did not respond to the hearing notice.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is overpaid benefits \$102.00.

#### **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 division of job service 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 division a sum equal to the overpayment.

If the division 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.

The administrative law judge concludes that the claimant is overpaid benefits \$1.00 for the week ending November 17, 2007 pursuant to Iowa Code Section 96.3-7. The employer erred by initially over-reporting the claimant's wages for the week ending November 17. The corrected wage report and department audit show the claimant under-reported her wages by \$1 (\$90 versus \$91) that created the overpayment.

#### DECISION:

The decision of the representative dated May 22, 2008, reference 03, is MODIFIED in favor of the claimant. The claimant is overpaid benefits \$1.00.

rls