

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY KINDER
Claimant

APPEAL NO: 15A-UI-07668-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/04/15
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Benefit Overpayment
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 15, 2015, reference 03, decision that determined he was overpaid benefits in the amount of \$416.00 for the one week ending May 16, 2015. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 4, 2015. The claimant participated in the hearing. Department's Exhibit D-1 was admitted into evidence.

ISSUES:

The issues are whether the claimant's appeal is timely and whether he is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on June 15, 2015. The claimant did not receive the decision prior to the due date. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 25, 2015. The appeal was not filed until July 2, 2015, which is after the date noticed on the disqualification decision. Because the claimant received the decision after the due date, the administrative law judge must conclude the claimant's appeal is timely.

The overpayment issue in this case was created by a disqualification decision that has now been reversed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7) provides, in pertinent part:

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 § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The June 15, 2015, reference 03, decision is reversed. The claimant has not been overpaid unemployment insurance benefits.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css