

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY J OPPMAN
Claimant

APPEAL NO. 09A-UI-14938-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/30/09
Claimant: Appellant (1)

Iowa Code Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Jeremy Oppman filed a timely appeal from the September 24, 2009, reference 03, decision that concluded he had been overpaid unemployment insurance benefits in the amount of \$171.00 for the three-week period of August 30, 2009 through September 19, 2009 due to a September 23, 2009 redetermination of his benefits eligibility. After due notice was issued, a hearing was held on November 5, 2009. Mr. Oppman participated in the hearing. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The administrative law judge took official notice of the monetary records and corrected monetary records sent to the claimant. The administrative law judge took official notice of the supporting documents that reflect the reduction of the weekly benefit amount. In entering this decision, the administrative law judge has also taken official notice of correspondence between the Agency and employer Old Capitol Limousine Service, employer account number 220117.

ISSUE:

Whether Mr. Oppman was overpaid unemployment insurance benefits in the amount of \$171.00 for the three-week period of August 30, 2009 through September 19, 2009.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeremy Oppman established a claim for unemployment insurance benefits that was effective August 30, 2009 and received benefits. For the weeks that ended September 5, 12 and 19, 2009, the Agency disbursed \$254.00 in regular unemployment insurance benefits.

When Mr. Oppman established his claim, the Agency determined Mr. Oppman's weekly benefit amount to be \$254.00. That figure was based on a particular portion of Mr. Oppman's employment history known as the "base period." The base period consisted of the first four of the last five calendar quarters that preceded the quarter in which Mr. Oppman filed his claim for benefits. Those calendar quarters were the second, third and fourth quarter of 2008 and the first quarter of 2009. During that period Mr. Oppman had wages from Palmer Companies, Inc.,

Team Staffing Solutions, Inc., and Robert Half Corporation. These wages would determine Mr. Oppman's weekly benefit amount and maximum benefit amount.

Another company, Old Capitol Limousine Service, has erroneously used Mr. Oppman's social security number when reporting wages for a different worker for the second, third, and fourth quarter of 2008. The amount of wages erroneously reported totaled \$3,144.00. When Workforce Development initially determined Mr. Oppman's benefits, this additional \$3,144.00 was erroneously added to his base period wages, which resulted in a determination that Mr. Oppman's weekly benefit amount should be \$254.00.

The error Old Capitol Limousine Service had made in using Mr. Oppman's social security number to report wages for a different person came to the attention of Workforce Development when Old Capitol Limousine responded to a notice of claim it received indicating it might be liable for benefits paid to Mr. Oppman. At that time, Old Capitol Limousine Service advised Workforce Development that Mr. Oppman had never worked for that company.

On September 23, 2009, Workforce Development redetermined Mr. Oppman's benefits to correct the erroneous inclusion of the additional \$3,144.00 in wages reported by Old Capitol Limousine. The redetermination of benefits reduced Mr. Oppman's weekly benefit amount from \$254.00 to \$197.00—the amount it should have been to begin with.

Because Mr. Oppman had already been paid three weeks of benefits at the inflated amount, the redetermination to the correct amount resulted in a decision that Mr. Oppman had been overpaid \$171.00, or \$57.00 for each of the three weeks he had received benefits at the erroneously inflated amount. $\$254.00 - \$197.00 = \$57.00$.

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 weight of the evidence indicates that Mr. Oppman received benefits during the three-week period of August 30 through September 19, 2009 that exceeded his correct benefit amount by \$171.00. Though the error was not Mr. Oppman's error, the law nonetheless requires that Mr. Oppman repay the overpayment of benefits and requires Workforce Development to recover the overpayment. The Agency has recovered the overpayment by means of a \$76.00 offset during the week that ended September 26, 2009 and an additional \$95.00 offset during the week that ended October 10, 2009. The overpayment to be recovered had been reduced to zero.

DECISION:

The September 24, 2009, reference 03, decision is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$171.00 for the three-week period of August 30, 2009 through September 19, 2009.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs