

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DONNA J GATLIN
29026 JUNIPER AVE
BLOOMFIELD IA 52537**

**MIDWEST STAVE SUPPLY INC
151 CAMINO DORADO
NAPA CA 94588**

**Appeal Number: 04A-UI-01426-CT
OC: 12/28/03 R: 03
Claimant: Appellant (2)**

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, 4th 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.

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.

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 Workforce Development. 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(7) – Vacation Pay
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Donna Gatlin filed an appeal from a representative's decision dated January 27, 2004, reference 02, which held she had been overpaid \$90.00 in job insurance benefits. After due notice was issued, a hearing was held by telephone on March 2, 2004. Ms. Gatlin participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Gatlin did not work during the week ending January 3, 2004. She received holiday pay for New Year's Day in the amount of \$80.00, which she reported on her claim. She did not receive any other pay attributable to the week ending January 3.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Gatlin has been overpaid for the week ending January 3, 2004. She properly reported the holiday pay received and her benefits were reduced accordingly. Inasmuch as she did not receive any other payments from the employer for this week, she has not been overpaid \$90.00. The overpayment has been recovered by withholding from benefits due for the week ending February 7, 2004.

DECISION:

The representative's decision dated January 27, 2004, reference 02, is hereby reversed. Ms. Gatlin has not been overpaid \$90.00 for the week ending January 3, 2004 as she did not have vacation pay for that week. The \$90.00 previously withheld shall be refunded to her.

cfc/b