

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY R BLAIR
Claimant

APPEAL NO. 08A-UI-00185-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/02/07 R: 01
Claimant: Appellant (4)**

Section 96.3-7 – Section Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated December 31, 2007, reference 02, that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$94.00 due to the receipt of vacation pay. A telephone hearing was scheduled and held on January 22, 2008, pursuant to due notice. The claimant did participate.

ISSUE:

The issue is whether the claimant is overpaid in unemployment benefits.

FINDINGS OF FACT:

Nancy Blair filed a claim for unemployment benefits with an effective date of December 2, 2007, on the advice of her supervisor because work was "slowing down." She worked that entire week ending December 8, 2007, and correctly reported the wages she earned.

The next week she reported \$91.00 in wages. When the employer was notified of the filing of the claim, it reported she would receive vacation pay of \$52.03, beginning December 9, 2007. She did not report the vacation pay that week because the employer had not yet informed her she would be receiving it, and it was not paid until December 28, 2007.

REASONING AND CONCLUSIONS OF LAW:

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 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.

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.

The claimant is not overpaid \$94.00 for the week ending December 8, 2007, because she correctly reported her wages and the vacation pay was not attributed to that week. She is overpaid for the week ending December 15, 2007, due to the receipt of vacation pay.

DECISION:

The decision of the representative dated December 31, 2007, reference 02, is modified in favor of the appellant. The claimant is not overpaid unemployment insurance benefits in the amount of \$94.00 for the week ending December 8, 2007, but is overpaid for the week ending December 15, 2007, due to the receipt of vacation pay.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw