

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RAMON SALTZ**  
Claimant

**APPEAL NO: 09A-UI-08234-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNIPARTS OLSEN INC**  
Employer

**OC: 02/08/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.3-7 - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

Ramon Saltz (claimant) appealed an unemployment insurance decision dated May 29, 2009, reference 02, which held that he was overpaid unemployment insurance benefits in the amount of \$151.00 as a result of a disqualification decision. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 23, 2009. The claimant participated in the hearing. The employer provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. Based on the evidence, the arguments of the party and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant was overpaid \$151.00 in unemployment insurance benefits for the one-week period ending February 14, 2009 due to the receipt of vacation pay?

**FINDINGS OF FACT:**

The administrative law judge, having heard and considered all of the evidence in the record, finds that: The overpayment issue in this case was created by the claimant's receipt of vacation pay for the week ending February 14, 2009. He was overpaid \$151.00 but was underpaid \$255.00 for the following week, and the difference of \$104.00 was paid to him on May 28, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$151.00 pursuant to Iowa Code § 96.3-7 due to the receipt of vacation pay.

**DECISION:**

The unemployment insurance decision dated May 29, 2009, reference 02, is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$151.00.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs