

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE M HENRY
Claimant

APPEAL NO: 10A-UI-15128-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/14/09
Claimant: Appellant (1)

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant, Denise Henry, appealed an unemployment insurance decision dated October 29, 2010, reference 03, that concluded she was overpaid unemployment insurance benefits in the amount of \$2,074.00. A hearing was held on January 25, 2011. Ms. Henry participated in the hearing. Official notice is taken of the Agency's records regarding her unemployment insurance claim, which show the wages she reported and amount of benefits she received for the weeks between June 14 and August 15, 2010. If Ms. Henry objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Was Ms. Henry overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Ms. Henry has been employed by the Sioux City Committee School District since 2007. She has also worked part time for Unco Corporation. She is employed during the school year by the School District and is off work over the summer months.

Ms. Henry filed a new claim for unemployment insurance benefits with an effective date of June 14, 2010, after completing her work for the 2008-09 school year. When she applied for benefits, she had assurance from the School District that she would return to work in the fall.

Ms. Henry's weekly benefit amount was determined to be \$266.00 per week based on the wages reported by the Sioux City School Community District and Unco Corporation.

Ms. Henry filed for and received a total of \$2,347.00 in unemployment insurance benefits for the weeks between June 14 and August 15, 2009. She had reported wages from her part-time job and received benefits for each week as shown below:

Week ending	Wages Reported	Benefits Received
06/20/09	\$0.00	\$266.00
06/27/09	\$36.00	\$266.00
07/04/09	\$35.00	\$266.00
07/11/09	\$35.00	\$266.00
07/18/09	\$112.00	\$220.00
07/25/09	\$31.00	\$266.00
08/01/09	\$67.00	\$265.00
08/08/09	\$62.00	\$266.00
08/15/09	\$62.00	\$266.00
Total		\$2,347.00

On July 2, 2009, an unemployment insurance decision was issued that concluded Ms. Henry was not eligible for benefits based on the wages paid by the Sioux City School Community District since she was an educational employer between school years with reasonable assurance of re-employment. The wages reported by Sioux City School Community District were removed from the claim. The decision concluded the claimant was still eligible for benefits based on the wages from Unco Corporation. Based on those wages her weekly benefit amount was reduced to \$62.00. Ms. Henry did not appeal that decision.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Ms. Henry was overpaid unemployment insurance benefits.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7.

The decision that concluded the claimant was not eligible for benefits based on the wages paid by the Sioux City School Community District was not appealed and became final. That reduced her weekly benefit amount to \$62.00. Under the law, a person can receive partial unemployment insurance benefits in any week in which her wages are less than her weekly benefit plus \$15.00 (in this case \$77.00) with the amount due calculated by deducting the amount of the wages that exceeds one-fourth of the weekly benefit amount (in this case \$15.50) rounding to the nearest dollar. 871 IAC 24.18. Using this formula the amount due and overpaid is display in the table below.

Week ending	Wages Reported	Benefits Received	Benefits Due	Benefits Overpaid
06/20/09	\$0	\$266.00	\$62.00	\$204.00
06/27/09	\$36.00	\$266.00	\$41.00	\$225.00
07/04/09	\$35.00	\$266.00	\$42.00	\$224.00
07/11/09	\$35.00	\$266.00	\$42.00	\$224.00
07/18/09	\$112.00	\$220.00	\$0	\$220.00
07/25/09	\$31.00	\$266.00	\$46.00	\$220.00
08/01/09	\$67.00	\$265.00	\$10.00	\$255.00
08/08/09	\$62.00	\$266.00	\$15.00	\$251.00
08/15/09	\$62.00	\$266.00	\$15.00	\$251.00
Total		\$2,347.00	\$273.00	\$2,074.00

Unquestionably, Ms. Henry was not at fault in receiving the benefits in question as she was unaware that she could not receive benefits between school years and benefits continued to be issued at \$266.00 per week for over a month after the July 2, 2009, decision was issued that removed her education wages from her base period. But based on law, Iowa Code § 96.3-7, benefits have to be recovered even if a claimant is not at fault. I am not permitted to ignore the law in this case to produce a desirable outcome.

Ms. Henry asked about whether arrangements could be made to make payments on an overpayment. She is instructed to contact her local Workforce Development Center for assistance in setting up a repayment arrangement to avoid recovery actions including offset against her state tax refund.

DECISION:

The unemployment insurance decision dated October 29, 2010, reference 03, is affirmed. Ms. Henry was overpaid \$2,074.00 in unemployment insurance benefits, which must be repaid.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs