

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARMALA C PITT**  
Claimant

**APPEAL NO. 11A-UI-01903-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

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

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed a representative's decision dated February 8, 2011, reference 05, that held she was overpaid benefits \$1,029.00 for the three weeks ending July 4, 2009 due to receiving vacation pay from Scotwood Industries. A hearing was held on Des Moines, Iowa on April 27, 2011. The claimant, and her husband, John, participated. The employer did not participate. Department Exhibit 1 was received as evidence.

**ISSUE:**

The issue is whether the claimant is overpaid unemployment benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant's overpayment is based on the decision in Appeal No. 11A-UI-01902-S. The claimant is overpaid \$335.00 for the week ending June 20 and \$311.00 for the week ending June 27 due to receiving vacation pay and additional earnings. The claimant is overpaid \$333.00 for the week ending July 4 due to vacation pay. The claimant is overpaid an additional \$50.00 for an extended benefit claim entitlement she received for the weeks ending June 20 & 27, for a total overpayment of \$1,029.00.

Claimant was advised that she has the right to enter into a re-payment agreement with the department or pursue an unemployment claim where she might offset a benefit entitlement against the overpayment.

**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 claimant is overpaid benefits \$1,029.00 for the three weeks ending July 4, 2009 due to receiving vacation pay and additional earnings.

**DECISION:**

The decision of the representative dated February 8, 2011, reference 05, is affirmed. The claimant is overpaid benefits \$1,029.00 for the three weeks ending July 4, 2009 due to receiving vacation pay.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs