

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTINE F SMITH
Claimant

APPEAL 17A-UI-00630-DL-T

KLEAVELAND BROS INC
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/27/16
Claimant: Appellant (2)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.5(5) – Severance Pay

STATEMENT OF THE CASE:

The claimant appealed the January 11, 2017, (reference 04) unemployment insurance decision that concluded the claimant was entitled to partial unemployment insurance benefits for the week ending December 24, 2016, as a result of deduction of severance pay from benefits. A telephone hearing was scheduled and held on February 8, 2017, pursuant to due notice. Claimant participated. Employer participated through manager Paul Krause.

ISSUE:

Was the claimant entitled to only partial benefits or is she partially overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed through Monday, November 28, 2016, and was paid \$120.00 in gross wages for that day. She did not receive accumulated but unused vacation pay. She did receive severance pay in the amount of \$1,200.00, equivalent to 80 hours, based upon a rate of pay at \$15.00 per hour. There was no requirement that she sign an agreement waiving certain rights to receive the pay. The partial week overpayment issue in this case was created by ineligibility decisions that have been reversed and modified in favor of the appellant.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits for the period in question.

Iowa Code section 96.3(7) provides, in pertinent part:

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) (a) 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 administrative law judge concludes that the claimant is entitled to full benefits without deduction for the week-ending December 24, 2016, and has not been overpaid unemployment insurance benefits in the amount of \$120.00 pursuant to Iowa Code section 96.3(7) as the ineligibility decisions that created the partial overpayment decision have been reversed and modified in favor of the appellant.

DECISION:

The January 11, 2017, (reference 04) unemployment insurance decision is reversed. The claimant is entitled to full benefits and has not been overpaid unemployment insurance benefits in the amount of \$120.00 for the week-ending December 24, 2016.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs