

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICARDO FRANCO
Claimant

APPEAL 17A-UI-02339-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (1-R)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 24, 2017, (reference 02), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$480.00 for the one-week period ending December 31, 2016, as a result of a disqualification decision. After due notice was issued, a telephone hearing was scheduled and held on March 24, 2017, pursuant to due notice. Claimant participated.

ISSUE:

Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by the disqualification decision that has been affirmed in appeal number 17A-UI-02338-JP-T. Claimant received benefits in the gross amount of \$480.00.

The employer paid claimant his remaining PTO/vacation in a gross amount of \$1694.16 for the temporary one week shutdown for the week beginning December 25, 2016. Claimant also received holiday pay for December 26, 2016 and December 31, 2016. Claimant did not report any PTO/vacation pay or holiday pay when he filed his claim for benefits for the week ending December 31, 2016.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has 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 claimant has been overpaid unemployment insurance benefits in the amount of \$480.00 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has been affirmed in appeal number 17A-UI-02338-JP-T.

DECISION:

The February 24, 2017, (reference 02) unemployment insurance decision is affirmed. Claimant has been overpaid unemployment insurance benefits in the gross amount of \$480.00 to which he was not entitled and those benefits must be recovered in accordance with Iowa law.

REMAND: The issue of whether claimant failed to report PTO/vacation pay and holiday pay as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

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