

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CHRISTINE F SMITH**  
Claimant

**APPEAL 17A-UI-00631-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 11/27/16  
Claimant: Appellant (4)**

---

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

**STATEMENT OF THE CASE:**

The claimant appealed the January 11, 2017, (reference 05) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits for the two weeks between November 27, 2016, and December 17, 2016, as a result of deduction of vacation and severance pay from benefits. A telephone hearing was scheduled and held on February 8, 2017, pursuant to due notice. Claimant participated.

**ISSUE:**

Has the claimant been overpaid unemployment insurance benefits?

**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 two-week overpayment issue in this case was created by ineligibility decisions that have been reversed and modified in favor of the appellant. She received \$447.00 in gross benefits for the week-ending December 3, 2016; she reported vacation/severance pay and received no benefits for the week-ending December 10, 2016; and \$447.00 in gross benefits for the week-ending December 17, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes claimant has not been overpaid benefits of \$894.00 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 overpaid \$447.00 for the week-ending December 3, 2016, due to the receipt of severance pay but is not overpaid \$447.00 for the week-ending December 17, 2016, because she is entitled to partial benefits of \$327.00 that week and is overpaid \$120.00 for that week due to the reduction of benefits by receipt of one day of severance pay.

**DECISION:**

The January 11, 2017, (reference 05) unemployment insurance decision is modified in favor of the appellant. The claimant is overpaid \$447.00 for the week-ending December 3, 2016, and \$120.00 for the week-ending December 17, 2016, for a total of \$567.00 for the two weeks between November 27, 2016, and December 17, 2016.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/rvs