

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREA L TIESKOTTER
Claimant

APPEAL NO. 06A-UI-11253-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/14/06 R: 03
Claimant: Appellant (1)

Section 96.3(7) – Overpayment of Benefits
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Andrea Tieskotter filed a timely appeal from the November 17, 2006, reference 03, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$1,302.38 for six weeks between July 16, 2006 and August 26, 2006 due to a redetermination dated November 16 that reduced her weekly maximum benefit amount. After due notice was issued, a hearing was held on December 11, 2006. Ms. Tieskotter participated in the hearing. The administrative law judge took official notice of the Agency's administrative file, including decisions entered by Administrative Law Judge Lynette Donner in Appeal Numbers 06A-UI-05880-DT and 06A-UI-05881-DT.

ISSUE:

Whether the claimant has been overpaid benefits of \$1,302.38.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Andrea Tieskotter established a claim for benefits that was effective May 14, 2006 and received benefits totaling \$3,902.00 for the 15-week period of May 14 through August 26, 2006. At the time the claim was established, Iowa Workforce Development determined Ms. Tieskotter's weekly benefit amount at \$269.00 her maximum benefit amount at \$5,745.02. These amounts were arrived at by using all of the wage credits Ms. Tieskotter had earned from all base-period employment.

In Appeal Numbers 06A-UI-05880-DT and 06A-UI-05881-DT, Administrative Law Judge Lynette Donner concluded that Ms. Tieskotter had voluntarily quit part-time employment with base period employers Super 8 of New Hampton and Southgate Inn without good cause attributable to the employers. Judge Donner concluded Ms. Tieskotter continued to be eligible for benefits, provided she was otherwise eligible. However, Judge Donner concluded, based on Workforce Development Rule 817 IAC 24.27, that wage credits based on the part-time employment could not be used, and should not have been used, in determining Ms. Tieskotter's weekly benefit

amount or maximum benefit amount. Judge Donner remanded both cases and directed the Agency to redetermine Ms. Tieskotter's benefit eligibility without using the wage credits Ms. Tieskotter had earned from the part-time employment. Ms. Tieskotter did not appeal Judge Donner's decision and, therefore, those decisions became final Agency decisions. The wage credits generated in connection with the part-time employment represented a significant portion of Ms. Tieskotter's total base period wage credits, \$3,145.40 of \$5,745.02.

On November 16, the Agency redetermined Ms. Tieskotter's eligibility for benefits and, pursuant to Judge Donner's decisions and Rule 871 IAC 24.27, excluded the wage credits Ms. Tieskotter earned from the part-time employment. This redetermination reduced Ms. Tieskotter's weekly benefit amount by \$30.00, to \$239.00. More importantly, the redetermination reduced Ms. Tieskotter's maximum benefit amount from \$5,745.02 to \$2,599.62. Because Ms. Tieskotter had received \$3,902.00 in benefits, but was only eligible for \$2,599.62, an overpayment of \$1,302.38 resulted.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The evidence in the record establishes that Ms. Tieskotter was overpaid benefits of \$1,302.38 as a result of redetermination of her benefit eligibility based on a voluntary quit of part-time employment.

DECISION:

The November 17, 2006, reference 03, overpayment decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,302.38.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css