

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAY E THOMPSON
Claimant

APPEAL NO. 06A-UI-10266-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/13/06 R: 02
Claimant: Appellant (2)**

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Kay E. Thompson (claimant) appealed a representative's October 19, 2006 decision (reference 03) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 6, 2006. This appeal was consolidated for hearing with two related appeals, 06A-UI-10264-DT and 06A-UI-10265-DT. During the hearing, Exhibit A-1 was entered into evidence. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision reversing the representative's decision.

ISSUE:

Was the claimant overpaid unemployment insurance benefits for the week ending October 7, 2006 due to the receipt of severance pay?

FINDINGS OF FACT:

A representative issued a decision dated October 19, 2006 (reference 01) that concluded the claimant was disqualified from receiving benefits for the three-week period ending October 14, 2006 due to the receipt of severance pay from Hubbell Homes, Inc. (employer). The claimant timely appealed that decision and in the concurrently issued decision in appeal 06A-UI-10264-DT, that decision has been reversed with a conclusion that there was no true "severance pay" attributable to any of the claimant's weeks of unemployment insurance claims. (Another concurrently issued decision in 06A-UI-10265-DT concluded that the only correct vacation pay allocation was for the week ending September 30, 2006.)

The overpayment decision was issued in this case as a result of the October 19, 2006 (reference 01) disqualification decision.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$347.00 for the week ending October 7, 2006.

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.

The administrative law judge concludes that the claimant is not overpaid benefits due to the disqualification decision issued on October 19, 2006 (reference 01), which has now been reversed.

DECISION:

The representative's October 19, 2006 decision (reference 03) is reversed. The claimant is not overpaid benefits due to the receipt of severance pay.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw