

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA L LAABS
Claimant

APPEAL NO. 08A-UI-10458-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/14/08 R: 03
Claimant: Appellant (2)**

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Donna L. Laabs (claimant) appealed a representative's November 4, 2008 decision (reference 03) that concluded she had been overpaid \$114.00 in benefits she received for the week ending September 27, 2008. The overpayment occurred as the result of a representative's November 4 decision (reference 01) that held the claimant was not eligible to receive benefits for the week ending September 20 because PTO pay she received was considered a vacation payment that was attributable to this week. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 24, 2008. 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.

ISSUE:

Has the claimant been overpaid \$114.00 in benefits she received for the week ending September 27, 2008?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of September 14, 2008. The claimant filed a claim for the week ending September 27, 2008. She received \$389.00 in benefits for this week.

The claimant appealed a representative's reference 01 decision that held the claimant was not eligible to receive benefits for the week ending September 20, 2008, because the PTO pay she received was deemed as vacation pay and deductible from her maximum weekly benefit amount. This decision has been reversed. See decision for appeal 08A-UI-10456-DWT.

REASONING AND CONCLUSIONS OF LAW:

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. Based on the decision for appeal 08A-UI-10456-DWT, the

claimant is legally entitled to receive benefits for the week ending September 27, 2008, because the PTO pay she received is not deductible like a vacation payment. Since PTO pay is not deductible, the claimant has not been overpaid \$114.00 in benefits she received for the week ending September 27, 2008.

DECISION:

The representative's November 4, 2008 decision (reference 03) is reversed. The claimant is legally entitled to receive her maximum weekly benefit amount for the week ending September 27, 2008. The claimant has not been overpaid \$114.00 in benefits she received for this week.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw