

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD R RICE**  
Claimant

**APPEAL NO: 15A-UI-01814-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/21/14  
Claimant: Appellant (2)**

Iowa Code 96.5(7) – Vacation Pay  
Iowa Code § 96.3(7) – Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's February 6, 2015 (reference 02) determination that held him overpaid \$80 in benefits for the week ending December 27 because he had not correctly reported vacation pay for that week. The claimant participated at the hearing March 11 hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant has not been overpaid \$80 in benefits during the week ending December 27, 2014.

**ISSUES:**

Did the claimant correctly report vacation pay he received?

Has the claimant ben overpaid \$80 in benefits for the week ending December 27, 2014?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of December 21, 2014. He requested vacation pay of \$80 for December 19, 2014. He filed a claim for the week ending December 27. He reported he had earned and received \$315 in holiday pay for this week. The claimant received \$80 in vacation pay that he requested for December 19, 2014 during the week of December 21. The claimant did not report the \$80 vacation pay because he requested it for December 19 or before he established his claim for benefits.

The claimant received partial benefits of \$205 for the week ending December 27, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. Iowa Code § 96.5(7), 871 IAC 24.16. The facts do not establish when or if the claimant's employer designated the \$80 vacation pay.

The evidence establishes the claimant requested vacation pay for December 19 and his employer paid him this amount during the week ending December 27. Under these facts, the vacation pay is attributed to December 19 or before the claimant established his claim for benefits. As a result, the claimant correctly excluded the \$80 vacation payment when he filed his claim for the week ending December 27, 2014.

If an individual receives benefits he 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). Since the \$80 in vacation pay is not attributed to the week ending December 27, the claimant has not been overpaid \$80 in benefits for the week ending December 27, 2014.

**DECISION:**

The representative's February 6, 2015 (reference 02) determination is reversed. The claimant's vacation pay for December 19 is not attributed to the week ending December 27, 2014. The claimant correctly reported his holiday pay for the week ending December 27, 2014 and correctly excluded reporting the \$80 vacation pay he received that week for December 19, 2014. The claimant has not been overpaid \$80 in benefits for the week ending December 27, 2014.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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