

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LYLE R KREWSON
Claimant

APPEAL NO. 09A-UI-18764-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 05/03/09
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Claimant appealed the December 4, 2009 (reference 03) decision that concluded claimant was overpaid unemployment insurance benefits in the amount of \$3,141.00 as a result of a vacation pay decision. After due notice was issued, a telephone conference hearing was scheduled to be held on January 27, 2010. Claimant did not respond to the hearing notice instructions and did not participate. Employer responded to the hearing notice instructions and provided a letter of clarification on December 23, 2009, so no hearing was necessary to resolve the issue.

ISSUE:

The issue is whether claimant is overpaid benefits for the nine week period ending July 4, 2009.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a vacation pay decision that has now been modified in favor of the appellant.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 has not been overpaid unemployment insurance benefits in the amount of \$3,141.00 as stated by the representative's decision. However, claimant is overpaid \$2,592.00 pursuant to Iowa Code § 96.3(7) because the decision that created the overpayment decision has now been modified in favor of the appellant.

DECISION:

The December 4, 2009 (reference 03) decision is modified in favor of the appellant. Claimant has been overpaid unemployment insurance benefits in the amount of \$2,592.00.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw