

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LANDON GLODOWSKI
Claimant

APPEAL NO: 18A-UI-11765-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/21/18
Claimant: Appellant (4)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.5(5) – Severance Pay
Iowa Code § 96.5(7) – Receipt of Vacation Pay/PTO

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 3, 2018, (reference 03) unemployment insurance decision that established an overpayment in the amount of \$2,335.00 due to receipt of severance pay. The claimant was properly notified about the hearing. A telephone hearing was held on December 20, 2018 and held jointly with Appeal 18A-UI-11764-JC-T. The claimant participated personally. The administrative law judge held the record open to allow the claimant to provide a severance agreement. The documents were received and Claimant's Exhibit A was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 21, 2018. The claimant's weekly benefit amount is \$467.00. The claimant filed for and received a total of \$2,335.00 in unemployment insurance benefits for the weeks between October 21, 2018 and November 24, 2018.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been modified in a decision of the administrative law judge in appeal 18A-UI-11764-JC-T. The claimant did not receive severance pay that is deductible from benefits.

The claimant did receive vacation pay that when calculated based upon his rate of pay, was in excess of his weekly benefit amount plus \$15.00. Accordingly, it was determined that the claimant was ineligible for benefits for the week ending October 27, 2018 only.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the overpayment shall be modified, as the claimant did not receive deductible severance pay but did receive vacation pay.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

In this case, the claimant did not receive deductible severance pay but did receive vacation pay that is deductible from his first week of benefits (the week ending October 27, 2018). See Appeal 18A-UI-11764-JC-T. He is ineligible for benefits for one week based upon the vacation pay received See Appeal 18A-UI-11764-JC-T.

Therefore, the administrative law judge concludes the claimant has been overpaid in the amount of \$467.00.

DECISION:

The December 3, 2018, (reference 03) decision is modified in favor of the claimant/appellant. The claimant did not receive severance pay. The claimant did receive deductible vacation pay and is ineligible for benefits for the week ending October 27, 2018 only. The claimant has therefore been overpaid \$467.00 for the week ending October 27, 2018.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn