

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA I YEAST
Claimant

APPEAL NO. 08A-UI-01709-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOMONT MOLDING INC
Employer

**OC: 12/23/07 R: 04
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Maria Yeast (claimant) appealed from the February 5, 2008, reference 03, decision that concluded the claimant was overpaid unemployment insurance benefits as a result of a failure to report or incorrectly reporting vacation pay from Lomont Molding (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 14, 2008. The claimant participated personally through Patricia Vargas-Verploeg, Interpreter. The employer participated by Kathy Schimmelpfennig, Personnel Assistant. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was overpaid unemployment insurance benefits due to the receipt of vacation pay from her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's last day of work was January 10, 2008. She correctly reported her earnings to the department. During the last week in January 2008, the employer sent the claimant a check for \$246.00 representing three days of vacation pay owed to the claimant. The three days following the claimant's separation from employment were January 11, 14 and 15, 2008. She was paid \$82.00 per day. The claimant reported the vacation pay as soon as she received it. She received unemployment insurance benefits for the one-week period ending January 19, 2008

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 been overpaid unemployment insurance benefits pursuant to Iowa Code § 96.3(7) as the claimant correctly reported the information she had at the time. The claimant was paid \$246.00 in vacation pay at the end of January 2008. That amount covered the three-day period of January 11, 14 and 15, 2008, or \$82.00 per day. The claimant is overpaid \$164.00 for the one week ending January 19, 2008. The representative's decision calculation is modified in favor of the appellant.

DECISION:

The February 5, 2008, reference 03, decision, is modified in favor of the appellant. The claimant was overpaid unemployment insurance benefits in the amount of \$164.00.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css