

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM J DREISE
Claimant

TRANS OVA GENETICS LC
Employer

APPEAL 23A-UI-10089-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/17/23
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The Claimant appealed a representative's decision dated October 19, 2023, (reference 03) that concluded the claimant was eligible to receive a reduced benefit amount of the week ending September 23, 2023 due to a failure to report vacation pay from Trans Ova Genetics LC. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 9, 2023. Claimant, William Dreise, participated personally. Employer, Trans Ova Genetics, did not participate. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the claimant receive vacation pay and if so, was it correctly deducted from benefits?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of September 17, 2023 after he was separated from employer.

Claimant filed for and received weekly benefit of \$604.00 in regular unemployment insurance benefits. Employer submitted documentation indicated claimant received vacation pay/PTO pay during the week ending September 23, 2023. Claimant was unaware the pay he received was vacation/PTO pay when filing for unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is eligible for reduced benefit for the week ending September 23, 2023.

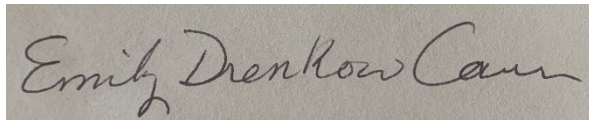
If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7).

Generally speaking, vacation pay is deemed wages. Iowa Code § 96.5(7)(a). If an employer does not designate the time period to which the vacation payment should apply, [p]ayments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay...for any period in excess of one week and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter.” Iowa Code § 96.5(7)(d).

The Department’s regulations make clear that if the employer does not designate the time period of the vacation pay, the entire amount is applied to the one-week period starting on the first workday following the last day worked. Here, the record is unclear as to whether employer designated the time period to which its vacation payment should apply within the ten days allotted for it to do so. As such, the administrative law judge finds the claimant is eligible for reduced benefit for the week ending September 23, 2023.

DECISION:

The decision of the representative dated October 19, 2023, (reference 03) is affirmed. Claimant is eligible for reduced benefit for the week ending September 23, 2023 due to receiving vacation/PTO pay for the week ending September 23, 2023.

A handwritten signature in cursive script, reading "Emily Drenkow Carr", on a light-colored rectangular background.

Emily Drenkow Carr
Administrative Law Judge

November 13, 2023
Decision Dated and Mailed

ed/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.