

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

BRIAN L DEMOSS
3976 – 14TH AVE N
ESTHERVILLE IA 51334

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04-UI-08244-DWT
OC: 07/04/04 R: 01
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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 are based.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Brian L. DeMoss (claimant) appealed a representative's July 27, 2004 decision (reference 03) that concluded he had been overpaid \$209.00 in unemployment insurance benefits for the week ending July 10, 2004 because of vacation pay he received during this week. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on August 23, 2004. The claimant appeared for the hearing. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant been overpaid \$209.00 in benefits for the week ending July 10, 2004?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of July 4, 2004. He filed a claim for the week ending July 10, 2004. He received \$209.00 in benefits for this week.

The claimant appealed a representative's July 27, 2004 decision that concluded he was not eligible to receive benefits for the week ending July 10, 2004 because he received vacation pay for this week. This decision was reversed. See decision for appeal 04A-UI-08243-DWT.

REASONING AND CONCLUSIONS OF LAW:

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. Based on the decision for appeal 04A-UI-08243-DWT, the claimant is legally entitled to receive benefits for the week ending July 10, 2004. The claimant had not been overpaid \$209.00 in benefits he received for this week.

DECISION:

The representative's July 27, 2004 decision (reference 03) is reversed. The claimant is entitled to receive benefits for the week ending July 10, 2004. The claimant has not been overpaid the \$209.00 in benefits he received for this week.

dlw/pjs