

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA A PIPPERT

Claimant

APPEAL NO: 14A-UI-10486-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION

Employer

OC: 12/29/13

Claimant: Appellant (4)

Section 96.3-7 – Recovery of Overpayment of Benefits

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Pamela A. Pippert (claimant) appealed a representative's October 2, 2014 (reference 01) decision that concluded she had been overpaid unemployment insurance benefits due to the receipt of vacation pay from Whirlpool Corporation (employer). After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on October 29, 2014. The claimant did not participate in the hearing. Carrie Jaster waived notice of hearing and participated on behalf of the employer. During the hearing, Exhibit A-1 was entered into evidence. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision affirming the representative's decision that the claimant was overpaid unemployment insurance benefits.

ISSUE:

Was the claimant is overpaid unemployment insurance benefits of \$329 for the week ending August 30, 2014 as a result of the receipt of vacation pay?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits effective December 29, 2013. Her weekly benefit amount was calculated to be \$439. She reactivated her claim by filing an additional claim effective August 24, 2014. This was because she had been temporarily laid off from work with the employer for one week from August 25 through August 29; she returned to work on September 2, 2014. The week of her layoff the claimant did receive vacation pay in the amount of \$151.12 (gross) for eight hours on August 29.

The claimant made a weekly continued claim for the benefit week ending August 30, 2014 and reported the receipt of vacation pay in the amount of \$80; she received reduced unemployment insurance benefits for the week in the amount of \$359.

When the claimant reactivated her claim, a notification of that claim was sent to the employer's third party representative. On September 6 the employer's representative made a response in which the representative reported that for the week ending August 29 "the claimant received the following remuneration: vacation pay \$377.80 lump sum." This information was incorrect. The correct amount was \$151.12.

REASONING AND CONCLUSIONS OF LAW:

If vacation pay was or will be received by the claimant and was properly allocated to a period of unemployment, it must be deducted from the claimant's unemployment insurance benefit eligibility; the vacation pay paid or owed "shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted." Iowa Code § 96.5-7. There was vacation pay attributable to the week ending August 29, but it was not the \$378 (rounded) initially reported by the employer's representative and utilized by the Agency representative in calculating the amount of the overpayment. The proper amount was \$151 (rounded). Deducted from the claimant's weekly benefit amount of \$439, the claimant's remaining benefit eligibility for the week was properly \$288. As the claimant was paid benefits of \$359 for that week, she was overpaid \$71.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7. The administrative law judge concludes that the claimant is overpaid benefits of \$71. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's October 2, 2014 (reference 01) decision is modified in favor of the claimant. The claimant is overpaid benefits, but in a reduced amount of \$71.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/can