

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMANTHA L HEERDT
Claimant

APPEAL NO. 11A-UI-04140-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ESTHERVILLE PUBLICATIONS INC
Employer

OC: 07/19/09
Claimant: Appellant (1)

Section 96.5-7 - Vacation Pay

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 29, 2011, reference 03, that concluded she was overpaid unemployment insurance benefits due to the receipt of vacation pay. A telephone hearing was held on April 26, 2011. The claimant participated in the hearing. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked for the employer until July 17, 2009. After she separated from employment, the claimant received vacation pay of \$732.00, which represented 80 hours of unused vacation pay at \$9.15 per hour.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 19, 2009. Her weekly benefit amount was \$301.00. The employer responded to the notice of claim within ten calendar days of the date that it was mailed to the employer. In its response, the employer reported the \$732.00 of vacation and designated the period to which the vacation pay was to apply as July 19 through August 1, 2009.

The claimant reported all of the vacation pay on her claim for the week ending July 25. As a result, she did not receive benefits for the week. The claimant did not report any pay for the week ending August 1 and received \$326.00 in benefits, which included her regular benefits and stimulus payment of \$25.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

Vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If an employer does not designate the dates to which vacation pay applies by the ten-day deadline, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code § 96.5-7.

Since the claimant was ineligible for benefits for the week ending July 25 and August 1, 2009, she was overpaid the \$326.00 in benefits she received for the week ending August 1, 2009.

DECISION:

The unemployment insurance decision dated March 29, 2011, reference 03, is affirmed. The claimant was overpaid the \$326.00 in benefits she received for the week ending August 1, 2009.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs