

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KEVIN DORR
Claimant

APPEAL NO. 14A-UI-10271-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/24/14
Claimant: Appellant (1)**

Iowa Code § 96.5-7 - Receipt of Vacation Pay
Iowa Code § 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Kevin Dorr (claimant) appealed an unemployment insurance decision dated September 25, 2014, reference 03, which held that he was overpaid \$168.00 in unemployment insurance benefits for the one-week period ending August 30, 2014, due to the receipt of vacation pay. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on October 27, 2014. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant was overpaid \$168.00 in unemployment benefits due to the receipt of vacation pay.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time truck driver from October 30, 2009 through August 27, 2014. After his separation, he received vacation pay in the amount of \$168.00 for the one-week period ending August 30, 2014. He filed a claim for and received benefits in the amount of \$282.00, but was only entitled to \$114.00. The claimant was overpaid benefits in the amount of \$168.00.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant was overpaid benefits due to the receipt of vacation pay. When an employer notifies the department within ten days of receiving a notice of claim that an amount of vacation pay, either paid or owed, is to be applied to a specific period, a sum equal to the wage of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation until the amount of the vacation pay is exhausted. 871 IAC 16(1).

If the employer does not timely designate the vacation period after receiving the notice of claim, the payment made by the employer to the claimant or an obligation to make a payment shall not be deemed wages for any period in excess of one week and such payment shall not be deducted from unemployment benefits for more than one week.

Since the employer has no control on when a claimant receives vacation pay when the payment is not directly deposited into a bank account, the date the claimant requests the vacation hours is when the vacation is owed. Just as wages are to be reported when they are earned, vacation pay should be reported for the time period the employer becomes obligated to pay out the vacation pay.

The claimant received \$168.00 in vacation pay for the one-week period ending August 30, 2014, and was paid \$282.00 in unemployment benefits for that same week. He was only eligible to receive \$114.00 in benefits so was overpaid \$168.00.

DECISION:

The unemployment insurance decision dated September 25, 2014, reference 03, is affirmed. The claimant was overpaid benefits in the amount of \$168.00 for the one-week period ending August 30, 2014.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs