

**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**

**PATRICIA A CLARK
602 N MAIN ST
MONROE IA 50170**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-07633-SWT
OC: 05/23/04 R: 02
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 is 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:

The claimant appealed an unemployment insurance decision dated July 6, 2004, reference 03, that concluded she was overpaid \$65.00 for the week ending June 5, 2004, due to the receipt of severance pay. A telephone hearing was held on August 5, 2004. The claimant participated in the hearing. Exhibits A-1 and A-2 were admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant received severance pay totaling \$1,368.00 for the period from May 1 through 28, 2004 (\$342.00 per week). The employer completed the notice of claim and reported that the claimant had received severance pay from May 1 through May 31, 2004. The employer has admitted that the notice of claim was erroneous and the correct period to which the severance pay should apply is May 1 through May 28, 2004.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 23, 2004. Her weekly benefit amount was determined to be \$300.00. The claimant received no severance pay during the week ending June 5, 2004, and properly received \$150.00 in benefits for that week after her wages of \$225.00 were deducted.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant was not overpaid \$65.00 in benefits for the week ending June 5, 2004.

DECISION:

The unemployment insurance decision dated July 6, 2004, reference 03, is reversed. The claimant was not overpaid \$65.00 in benefits for the week ending June 5, 2004.

saw/kjf