

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLOTTE A WITTE**  
Claimant

**APPEAL NO. 07A-UI-06855-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KEMIN INDUSTRIES INC**  
Employer

**OC: 03/25/07 R: 02**  
**Claimant: Appellant (4)**

Section 96.5(5) – Severance Pay

**STATEMENT OF THE CASE:**

The claimant, Charlotte Witte, filed an appeal from a decision dated July 11, 2007, reference 05. The decision found her overpaid \$707.07 unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 30, 2007. The claimant participated on her own behalf. The employer, Kemin Industries, participated by Senior Human Resources Generalist David Larson.

**ISSUE:**

The issue is whether the claimant is overpaid due to the receipt of severance pay.

**FINDINGS OF FACT:**

Charlotte Witte was employed by Kemin Industries from October 12, 2004 until February 28, 2007, as a full-time quality control person. Her rate of pay at time of separation was \$16.04 per hour. After her separation, she received \$1,796.48 in vacation pay, representing 112 hours, and \$10,000.00 in severance pay.

Ms. Witte filed for unemployment benefits with an effective date of March 27, 2007. The vacation and severance pay combined represent 17.76 weeks of pay. For the week ending July 7, 2007, she should have reported \$133.33 in severance pay and received \$133.00 in benefits.

**REASONING AND CONCLUSIONS OF LAW:**

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.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of July 11, 2007, reference 05, is modified in favor of the appellant. Charlotte Witte is overpaid \$133.00 for the one-week period ending July 7, 2007.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw