

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSE R PAREDES PINEDA
Claimant

APPEAL 17A-UI-08080-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT HEINZ FOODS COMPANY
Employer

OC: 12/18/16
Claimant: Appellant (4)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.18 – Wage-Earnings Limitation
Iowa Admin. Code r. 871-24.13(2) – Holiday Pay

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 8, 2017, (reference 02) unemployment insurance decision that found claimant overpaid unemployment insurance benefits in the amount of \$332.00 for the one week ending July 8, 2017. The parties were properly notified about the hearing. A telephone hearing was held on September 7, 2017. Claimant participated personally and through Interpreter 1274 with CTS Language Link. Employer was notified of the hearing, but did not register for the hearing or participate.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is currently employed by employer. Claimant worked reduced hours during the one week ending July 8, 2017. Claimant worked 14 hours and was paid for the holiday. Employer paid claimant for a total of 22 hours in the amount of \$495.00. Claimant's weekly benefit amount is \$480.00. He made a continued weekly claim and reported earning \$440.00 in wages and holiday pay. Claimant was paid \$160.00 in gross benefits. The agency issued this reference 02 decision finding claimant overpaid \$332.00 in benefits for incorrectly reporting wages earned during the week ending July 8, 2017. The \$332.00 overpayment was offset from a later benefit payment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the wages/holiday pay was deducted in the incorrect amount.

Iowa Admin. Code r. 871-24.18 provides:

An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the nearest dollar, in excess of one-fourth of the individual's weekly benefit amount.

Iowa Admin. Code r. 871-24.13(2)a provides:

(2) Deductible payments from benefits. The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96):

a. Holiday pay. However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

In this case, claimant was paid \$495.00 in wages and holiday pay during the one week ending July 8, 2017. The wages and holiday pay should be properly deducted from his weekly benefit amount as follows.

Gross wages and holiday pay \$495.00 – (25% of \$480.00 WBA = \$120.00) = \$375.00
deduction from WBA

\$480.00 WBA - \$375.00 deduction from WBA = \$105.00 partial weekly benefit amount

In this case, claimant should have been paid \$105.00 in gross benefits for the week ending July 8, 2017, but was actually paid \$160.00 in gross benefits. Therefore, claimant was overpaid benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) (a) 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.

Claimant's overpayment was incorrectly calculated. Claimant was overpaid benefits as follows:

\$160.00 WBA paid - \$105.00 partial benefits due = \$55.00 overpayment for the week

Because claimant's overpayment was incorrectly calculated, his benefits were offset in an incorrect amount. Claimant should be reimbursed as follows:

$\$332.00 \text{ offset} - \$55.00 \text{ overpayment} = \$277.00 \text{ benefits due to claimant}$

DECISION:

The August 8, 2017, (reference 02) unemployment insurance decision is modified in favor of the appellant. The wages and holiday pay were deducted in the incorrect amount for the week ending July 8, 2017. Claimant was overpaid benefits in the amount of \$55.00 for the week ending July 8, 2017. The \$277.00 that was incorrectly offset from claimant's benefits should be paid to claimant.

Christine A. Louis
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Decision Dated and Mailed

cal/rvs