

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

KENDRA K WYATT-KOGER
1845 HUNTINGTON RD
WATERLOO IA 50701

BERGMAN PRECISION INC
3730 E SOUTHERN AVE
PHOENIX AZ 85040-3958

Appeal Number: 04A-UI-10481-CT
OC: 08/01/04 R: 03
Claimant: Appellant (1)

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 96.5(7) – Vacation Pay
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Kendra Wyatt-Koger filed an appeal from a representative's decision dated September 13, 2004, reference 04, which held she had been overpaid job insurance benefits for the week ending August 7, 2004 because of her receipt of vacation pay from Bergman Precision, Inc. After due notice was issued, a hearing was held by telephone on October 19, 2004. Ms. Wyatt-Koger participated personally. The employer participated by Tod Jarrett, Vice President of Office Operations.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Wyatt-Koger's last day of work for Bergman Precision, Inc. was July 30, 2004. In connection with her separation, she was paid for 10.9 hours of accrued vacation time. The vacation pay was in the gross amount of \$130.80. Ms. Wyatt-Koger was paid \$292.00 in job insurance benefits for the week ending August 7, 2004. She reported \$125.00 in wages for the week from other employment.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Wyatt-Koger has been overpaid job insurance benefits for the week ending August 7, 2004. She was paid \$292.00 in benefits for the week because the only deduction was for \$125.00 in wages. She had \$130.80 (rounded to \$131.00) in vacation pay which should have been deducted but was not. Vacation pay is deducted on a dollar-for-dollar basis. Because the vacation pay was not deducted, Ms. Wyatt-Koger was overpaid by \$131.00 for the week ending August 7, 2004.

DECISION:

The representative's decision dated September 13, 2004, reference 04, is hereby affirmed. Ms. Wyatt-Koger has been overpaid \$131.00 in job insurance benefits for the week ending August 7, 2004.

cfc/pjs