

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VELID KADRIC
Claimant

APPEAL NO. 07A-UI-00971-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TITAN TIRE CORPORATION
Employer

**OC: 12/24/06 R: 02
Claimant: Appellant (2)**

Section 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed from the January 24, 2007, reference 01, decision that concluded the claimant was overpaid unemployment insurance benefits as a result of a failure to report or incorrectly reporting vacation pay received from Titan Tire (employer). A telephone hearing was scheduled to be held February 13, 2007, pursuant to due notice. A hearing was not deemed necessary to be held in order to make a decision for reasons which will appear in the Findings of Fact.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer did not correctly report the dates of the claimant's vacation on the notice c. Prior to the hearing the employer informed the claimant and the administrative law judge of the error. The claimant did not take vacation from December 27 through 29, 2006.

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 administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits pursuant to Iowa Code section 96.3(7) as the employer did not correctly report vacation pay for the one-week period ending December 30, 2006. The representative's decision calculation is not correct.

DECISION:

The January 24, 2007, reference 01, decision is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$290.00.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css