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

SANDRA S KUHNS
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INDIANOLA IA 50125

CITY OF INDIANOLA
PO BOX 299
INDIANOLA IA 50125

Appeal Number: 05A-UI-02049-BT
OC: 01/30/05 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 96.5-7 – Receipt of Vacation Pay
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Sandra Kuhns (claimant) appealed an unemployment insurance decision dated February 17, 2005, reference 02, which held that she was overpaid on her unemployment insurance claim for the failure to report or incorrectly reporting vacation pay received from the City of Indianola (employer). Due notice was issued scheduling the matter for a telephone hearing to be held March 15, 2005. Because there was no dispute in this case, a hearing was deemed unnecessary.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that found the claimant to be overpaid in unemployment insurance benefits as the result of vacation pay. It was previously determined the claimant had received both $40.00 in vacation pay and $58.00 in wages for the week ending February 5, 2005. She actually only received $40.00 in vacation pay for that one-week period.

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 in the amount of $40.00 pursuant to Iowa Code section 96.3-7 as she properly reported her vacation pay for the one-week period ending February 5, 2005.

DECISION:

The decision of the representative dated February 17, 2005, reference 02, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of $40.00.

sdb/sc