

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARA SPERFSLAGE
Claimant

APPEAL NO: 07A-UI-07100-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OPERATION NEW VIEW
Employer

**OC: 06/10/07 R: 04
Claimant: Appellant (2)**

Section 96.5-7 – Receipt of Vacation Pay
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Kara Sperfslage (claimant) appealed an unemployment insurance decision dated July 13, 2007, reference 01, which held that she was overpaid \$158.00 in unemployment insurance benefits due to the receipt of vacation pay from Operation New View (employer). Due notice was issued scheduling the matter for a telephone hearing to be held August 7, 2007. Because there was no disagreement as to the material facts of this case and a corrected decision could be made based on the record as it stood, a hearing was deemed unnecessary. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant was overpaid \$158.00 in unemployment insurance benefits for the one-week period ending June 16, 2007 due to the receipt of vacation pay.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The claimant received vacation pay in the amount of \$482.17 for the two-week period ending June 3, 2007. She filed her unemployment insurance claim effective June 10, 2007 and correctly reported no earnings for that week.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant was overpaid \$158.00 in unemployment insurance benefits due to the receipt of vacation pay. For the reasons that follow, the administrative law judge concludes the claimant was not overpaid.

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 \$158.00 pursuant to Iowa Code section 96.3-7 because she received vacation pay prior to opening her claim for benefits. She properly reported no vacation wages after filing her claim.

DECISION:

The unemployment insurance decision dated July 13, 2007, reference 01, reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$158.00.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs