

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REBECCA J WICKENKAMP**  
Claimant

**APPEAL NO. 10A-UI-06583-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IAC IOWA CITY**  
Employer

**OC: 01/03/10**  
**Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayments  
Section 96.5-7 – Vacation Pay  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from an unemployment insurance decision dated March 24, 2010, reference 01, that ruled she had been overpaid \$125.00 in unemployment insurance benefits for the week ending January 9, 2010 because of incorrectly reporting vacation pay received from IAC Iowa City. After due notice was issued, a telephone hearing was held May 25, 2010 with Ms. Wickenkamp participating. Teresa Feldmann participated for the employer. Exhibit D-1 was admitted into evidence.

**ISSUES:**

Did the claimant file a timely appeal?  
Has the claimant been overpaid because of incorrectly reporting vacation pay?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant received unemployment insurance benefits for the week ending January 9, 2010 because she was on a temporary layoff. In mid January she also received a 2009 vacation payout for unused vacation hours from 2009. The employer did not intend the vacation payout to offset unemployment insurance benefits.

Ms. Wickenkamp did not receive the fact-finding decision in time to file an appeal by April 3, 2010. She filed her appeal promptly after she received it.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the appeal can be accepted as timely. Although the testimony on this issue is somewhat sketchy, the administrative law judge concludes that the claimant did not receive the adverse decision promptly after it was mailed to her. He also concludes that she filed her appeal within a reasonable amount of time after receiving the decision.

The remaining question is whether Ms. Wickenkamp has been overpaid unemployment insurance benefits for incorrectly reporting vacation pay attributed to the week ending January 9, 2010. The testimony of the employer's witness establishes that the company did not intend the 2009 vacation payout to be used to offset unemployment insurance benefits for Ms. Wickenkamp and other employees in similar circumstances. Under these circumstances, it was not an error for Ms. Wickenkamp to fail to report the vacation pay. She has not been overpaid.

**DECISION:**

The unemployment insurance decision dated March 24, 2010, reference 01, is reversed. The claimant has not been overpaid for the week ending January 9, 2010.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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