

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGORY D WISSLEAD
Claimant

APPEAL NO. 11A-UI-02933-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROQUETTE AMERICA INC
Employer

OC: 09/26/10
Claimant: Appellant (4)

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 3, 2011 determination (reference 03) that held he had been overpaid \$521.00 in benefits he received between November 28 and December 18, 2010. The overpayment occurred as the result of a representative's (reference 02) determination that held him ineligible to receive benefits for the weeks ending December 4 and 11, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant has been overpaid \$79.00, not \$521.00.

ISSUE:

Has the claimant been overpaid \$521.00 in benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 26, 2010. The claimant filed for received some weekly claims as indicated below:

Weekending	Vacation/Holiday Pay	Benefits Paid
11/27/10	\$0.00	\$404.00
12/04/10	\$180.00	\$325.00
12/11/10	\$999.00	\$0.00
12/18/10	\$0.00	\$404.00

The claimant appealed the representative's (reference 02) determination. See decision for appeal 11A-UI-02932-DWT. This determination was modified to hold the claimant should have reported his Thanksgiving holiday pay during the week ending November 27 and his floating holiday pay during the week ending December 4. The decision for appeal 11A-UI-02932-DWT also held the claimant's vacation is all reported during the week ending December 11, 2010.

REASONING AND CONCLUSIONS OF LAW:

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7).

The claimant properly reported his vacation pay during the week ending December 11, 2010. He properly reported a floating holiday payment during the week ending December 4. The claimant did not report his Thanksgiving holiday pay during the week ending November 27, 2010. The claimant has been overpaid \$79.00 for the week ending November 27, 2010.

To offset the representative's overpayment decision, the computer records indicate the Department withheld \$404.00 in benefits from the claimant during the week ending March 5 and withheld \$117.00 in benefits the next week. Since the claimant has only been overpaid \$79.00, the Department withheld too much money and the Department owes the claimant \$442.00 in benefits.

DECISION:

The representative's March 3, 2011 (reference 03) is modified in the claimant's favor. The claimant has been overpaid \$79.00 in benefits for the week ending November 27, not \$521.00. Since the Department withheld \$521.00 in benefits in March to offset the representative's overpayment determination, the Department has withheld \$442.00 too much from the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw