

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WES THORSON
Claimant

APPEAL 19A-UI-08355-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/07/19
Claimant: Appellant (1-R)

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

STATEMENT OF THE CASE:

On October 25, 2019, Wes Thorson (claimant) appealed an unemployment insurance decision dated October 23, 2019, reference 04, that concluded he was overpaid \$545.00 in unemployment insurance benefits. A telephone hearing was held on November 14, 2019. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

ISSUE:

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 7, 2019 and his weekly benefits amount is \$545.00. The claimant began working effective September 23, 2019. He worked forty hours that week earning \$15.00 an hour, for a total of \$600.00 in gross wages. On his weekly continued claim for benefits, the claimant only reported gross wages of \$15.00 and received a total of \$545.00 in unemployment insurance benefits.

The claimant's last employer was Dohrn Transfer Company (account number 545038). The first week the claimant filed for and received benefits, he reported \$1.00 in vacation pay. The claimant received vacation pay that week but was only able to enter a "1" into the space provided to report the pay. The issue of whether the claimant is eligible for unemployment insurance benefits due to the receipt of vacation pay for the week ending July 13, 2019 has not yet been investigated or adjudicated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was overpaid unemployment insurance benefits in the amount of \$545.00 which must be repaid.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

A person who is working and earning more in gross wages than their weekly benefit amount plus fifteen dollars is not considered unemployed and is not eligible for benefits. See Iowa Code § 96.19(38)b. The claimant worked and earned wages for the week ending September 28 in excess of \$560.00 which is his weekly benefit amount plus fifteen dollars. The claimant incorrectly reported his wages earned during his weekly continued claim for benefits and has been paid benefits to which he is not entitled. The claimant was overpaid \$545.00 for the week ending September 28 which must be repaid.

The issue of whether the claimant is eligible for unemployment insurance benefits due to the receipt of vacation pay for the week ending July 13, 2019 is remanded for a fact-finding interview or investigation to include both parties and an unemployment insurance decision with appeal rights to include both parties.

DECISION:

The unemployment insurance decision dated October 23, 2019, reference 04, is affirmed. The claimant was overpaid \$545.00 in unemployment insurance benefits, which must be repaid.

REMAND:

The issue of whether the claimant is eligible for unemployment insurance benefits due to the receipt of vacation pay for the week ending July 13, 2019 is remanded for a fact-finding interview or investigation to include both parties and an unemployment insurance decision with appeal rights to include both parties.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn