

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONNA M ALBERTS**  
Claimant

**APPEAL NO. 09A-UI-00248-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/02/08 R: 01  
Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

Claimant appealed the January 2, 2009, reference 05, decision that concluded claimant was overpaid unemployment insurance benefits in the amount of \$713.00 as a result of a vacation pay decision. A telephone hearing was scheduled to be held on January 21, 2009, but since both parties agreed that employer's clarification of vacation pay in writing was accurate, no hearing was held.

**ISSUE:**

The issue is whether claimant is overpaid benefits for the two-week period ending November 22, 2008.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a vacation pay decision that has now been modified in favor of the appellant.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 \$713.00 as stated by the representative's decision. However, claimant is overpaid \$357.00 pursuant to Iowa Code § 96.3(7), because the decision that created the overpayment decision has now been modified in favor of the appellant.

**DECISION:**

The January 2, 2009, reference 05, decision is modified in favor of the appellant. Claimant has been overpaid unemployment insurance benefits in the amount of \$357.00.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/kjw