

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA M JONES
Claimant

APPEAL NO: 06A-UI-09197-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/13/06 R: 04
Claimant: Appellant (4-R)**

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 8, 2006, reference 02, that concluded she was overpaid \$344.00 for the weeks between August 13 and 26, 2006, due to the receipt of severance pay. A telephone hearing was held on September 27, 2006. The claimant participated in the hearing. Exhibits A-1 and A-2 were admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked for the employer from May 27, 1987, through July 19, 2006. The claimant's weekly wage while employed was \$469.44 based on 24 hours of work per week. After her separation from employment, the claimant received severance pay totaling \$1,721.28 for 88 hours, which was intended to cover the period from July 19, 2006, through August 15, 2006. The claimant also was paid vacation pay totaling \$2,279.71 for 116.55 hours, which was intended to cover the period from August 16 through September 5, 2006.

The claimant filed a new claim for unemployment insurance benefits with an effective date of August 13, 2006. Her weekly benefit amount was determined to be \$260.00. The employer responded to the notice of claim within ten calendar days of the date that it was mailed to the employer. In its response, the employer designated the period from July 19, 2006, through August 15, 2006, as the period to which the severance pay was to apply and August 16 through September 5, 2006, as the period to which the vacation pay was to apply.

The claimant filed weekly claims for the weeks ending August 19, August 26, September 2, September 9, and September 16. She mistakenly reported \$176.00 in vacation pay for the week ending August 19 and was paid \$84.00 in benefits. She did not report any payments during the week ending August 26 and was paid \$260.00 in benefits. She reported \$613.00 in wages for the week ending September 2 and did not receive benefits. She mistakenly reported \$235.00 in vacation pay for the week ending September 9 and was paid \$25.00 in benefits but the benefits were kept to satisfy an overpayment. She mistakenly reported \$176.00 in vacation pay for the week ending September 16 and was paid \$84.00 in benefits but the benefits were kept to satisfy an overpayment.

In a decision in appeal 06A-UI-09196-SWT, it was determined that the claimant was ineligible for unemployment insurance benefits for the weeks ending August 19, August 26, and September 2 and was eligible for \$14.00 in benefits for week ending September 9.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

As a result of this decision in 06A-UI-09196-SWT, the claimant was overpaid \$84.00 in benefits for the week ending August 19, \$260.00 for the week ending August 26, and \$9.00 for the week ending September 9, 2006. She was underpaid \$176.00 for the week ending September 16, 2006. She was, therefore, overpaid \$356.00 in benefits and underpaid \$176.00, for a net overpayment of \$180.00.

DECISION:

The unemployment insurance decision dated the September 8, 2006, reference 02, is modified in favor of the claimant. The claimant was overpaid \$356.00 in benefits and underpaid \$176.00, for a net overpayment of \$180.00. The matter of making the proper adjustments consistent with this decision is remanded to the agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw