

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA L LAUGHLIN
Claimant

APPEAL NO: 06A-UI-09142-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Debra Laughlin (claimant) appealed a representative's September 6, 2006 decision (reference 04) that concluded she was overpaid unemployment insurance benefits in an amount of \$529.00 because of the receipt of severance pay and vacation pay. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was held on September 26, 2006. The claimant participated personally.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits in an amount of \$529.00 due to the receipt of vacation pay and severance pay.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from October 21, 2005, until August 14, 2006, as a full-time expeditor. When the claimant's employment ended the employer gave the claimant wages through August 15, 2006, and three days of vacation pay covering the week ending August 19, 2006. No severance pay was issued to the claimant from the employer.

The claimant filed her claim for unemployment insurance benefits with an effective date of August 13, 2006. She received \$258.00 in unemployment insurance benefits for the week ending August 19, 2006, and \$271.00 in unemployment insurance benefits for the week ending August 26, 2006.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant is overpaid unemployment insurance benefits in an amount of \$258.00 due to the receipt of vacation pay for the week ending August 19, 2006.

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.

Iowa Code section 96.16-4 provides:

4. Misrepresentation. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$258.00 pursuant to Iowa Code section 96.3-7 as the vacation pay was not correctly reported for the one week period ending August 19, 2006.

DECISION:

The representative's September 6, 2006 decision (reference 04) is modified in favor of the appellant. The claimant is overpaid unemployment insurance benefits in an amount of \$258.00 due to the receipt of vacation pay for the week ending August 19, 2006.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/cs