

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSEPH STRECK
Claimant

APPEAL 18A-UI-02770-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/28/18
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant appealed the February 26, 2018, (reference 04) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,032.00 for the two-week period ending February 17, 2018, as a result of a decision finding vacation pay deductible from unemployment insurance benefits for the four weeks ending February 24, 2018. A telephone hearing was scheduled and held on March 27, 2018, pursuant to due notice. The claimant participated.

ISSUE:

Is the claimant overpaid benefits?

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 the decision finding vacation pay deductible from unemployment insurance benefits for the four weeks ending February 24, 2018. That decision was modified in favor of claimant/appellant in Appeal Number 18A-UI-02769-CL-T. That decision found the entire amount of vacation pay should be deducted from the first week of unemployment benefits, the week ending February 3, 2018. Claimant did receive benefits for the two weeks ending February 17, 2018, but it has been found vacation pay is not deductible from benefits during that time period.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits.

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.

b. (1) 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 § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$1,032.00 pursuant to Iowa Code § 96.3(7) as the decision that created the overpayment has been modified in claimant's favor.

DECISION:

The February 26, 2018, (reference 04) unemployment insurance decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$1,032.00.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn