

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 06A-UI-05935-H2T  
OC: 04-02-06 R: 04  
Claimant: Appellant (5)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**EDWARD J FOREHLE  
3216 FRANKLIN AVE  
DES MOINES IA 50310-5131**

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**BUILDERS KITCHEN & SUPPLY  
130 E 3<sup>RD</sup> ST  
DES MOINES IA 50309**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 31, 2006, reference 04, decision that found him overpaid unemployment insurance benefits. After due notice was issued, a hearing was held on June 27, 2006. The claimant did participate. The employer did participate through Bruce Lefkow, President. Department's Exhibit D-1 was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated on March 31, 2006 and received severance pay in the amount of \$2,507.50 based upon a rate of pay at \$14.75 per hour. The employer did designate the period of time to which the severance pay was to be applied as from April 1, 2006 to May 1, 2006.

The claimant was paid a total of 170 hours of severance pay or \$2,507.50. He was also paid for 24 hours of vacation pay or \$354.00. He was also paid for 58 hours of unused sick leave or \$855.50. The claimant filed a claim for benefits with an effective date of April 2, 2006. The claimant's vacation pay and severance pay amount to 194 hours of time or a total of \$2,861.50. For an individual who normally works a 40-hour workweek, the claimant has received severance or vacation for a total of almost five weeks, or from the week ending April 8, through the week ending May 6, 2006.

The overpayment issue in this case was created by a disqualification decision that has now been affirmed.

#### REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$324.00 pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed.

#### DECISION:

The May 31, 2006, reference 04, decision is modified in favor of the respondent. The claimant has been overpaid unemployment insurance benefits in the amount of \$324.00.

tkh/cs