

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANK STOOS
Claimant

APPEAL NO: 06A-UI-09073-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/25/06 R: 01
Claimant: Appellant (2)**

Section 96.5-7 - Receipt of Vacation Pay

STATEMENT OF THE CASE:

Frank Stoos (claimant) appealed an unemployment insurance decision dated September 7, 2006, reference 01, which held that he was overpaid \$92.00 in unemployment insurance benefits due to the receipt of vacation pay from American Industrial (employer). After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on September 26, 2006. The claimant participated in the hearing. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is overpaid \$92.00 in unemployment insurance benefits as the result of the failure to report or incorrect reporting of vacation pay?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: After the claimant's separation from American Industrial on August 22, 2006, he did not receive any vacation pay. He did receive wages in the amount of \$313.51 for the week-ending August 25, 2006 and properly reported those wages.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is overpaid due to the receipt of vacation pay. The claimant did not receive vacation pay after his separation. He received wages in the amount of \$313.51 for the week ending August 25, 2006 and properly reported those wages.

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 not been overpaid unemployment insurance benefits in the amount of \$92.00 pursuant to Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated September 7, 2006, reference 01, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$92.00.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs