

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYLER A LEONARD
Claimant

APPEAL 19A-UI-01153-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/23/18
Claimant: Appellant (3)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the February 6, 2019, (reference 03), decision that found him overpaid unemployment insurance benefits in the amount of \$89.00 due to his incorrectly reporting holiday pay for the week ending December 29, 2018. After due notice was issued, a hearing was held by telephone conference call on February 25, 2019. Claimant participated.

ISSUE:

Was the claimant overpaid unemployment insurance benefits for the week ending December 29, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant file a claim for benefits with an effective date of December 23, 2018. His weekly benefit amount is \$502.00.

During the week that began on December 23 and ended on December 29, 2018, the claimant worked and earned wages and was given holiday pay. On December 23, 2018 (the only day the claimant worked during the week) the claimant worked 9.75 hours at his regular hourly rate of \$18.50 and earned wages in the amount of \$180.38. Since the claimant was working the third shift he also earned differential pay of .35 for each hour worked. The claimant's differential pay was \$3.41. Claimant's total wages earned for the week are \$183.79. Claimant also received sixteen hours of holiday pay at the rate of \$17.21 per hour. Claimant's holiday pay for the week was \$275.36. Claimant's holiday pay and wages for the week total \$459.15. When filing his weekly claim for the week ending December 29, 2018 the claimant indicated he earned \$65.00 in wages and \$444.00 in holiday pay. His weekly reporting was not accurate. Claimant was paid \$379.00 in unemployment insurance benefits for the week ending December 29, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge determines the claimant was overpaid unemployment insurance benefits.

Iowa Code S 96.3(7) requires that if an individual is overpaid unemployment insurance benefits, even if through no fault of their own, the agency shall recover the benefits.

Iowa Administrative Code rule 871-24.13(2)a provides that holiday pay is deductible from a claimant's unemployment insurance benefits. For purposes of computing any deductions to be made, holiday pay is treated like earned wages.

To compute the deduction required to be made to an employee's benefits, the following formula is set out in the Iowa Administrative code.

871—24.18 (96) Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the nearest dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code sections 96.3, 96.4 and 96.19(38).

Claimant's total wages and holiday pay for the week were \$459.15 which is rounded to \$459.00. Adding fifteen dollars to the claimant's weekly earning gives him a total of \$474.00 which is less than his weekly benefit amount of \$502.00. Since \$474.00 is less than claimant's weekly benefit amount of \$502.00, claimant is eligible for a reduced unemployment insurance benefit payment.

One-fourth of claimant's weekly benefit amount is \$126.00. That is the amount claimant can earn before any deduction is made to his weekly benefit amount. Anything the claimant earns over \$126.00 is deducted on a dollar for dollar basis. Claimant's weekly earning less his allowance equals the amount of deduction that must be made from his weekly payment. $\$459.00 - \$126.00 = \$333.00$ which is the amount that must be deducted from his weekly benefit amount for the week ending December 29, 2018. $\$502.00 - \$333.00 = \$169.00$. Claimant was entitled to unemployment insurance benefits in the amount of \$169.00 but was paid \$379.00. Claimant is thus overpaid \$210.00. The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$210.00 pursuant to Iowa Code Section 96.3-7 as he incorrectly reported his earnings and holiday pay.

DECISION:

The February 6, 2019, (reference 03) decision is modified in favor of Iowa Workforce Development. The claimant has been overpaid unemployment insurance benefits in the amount of \$210.00.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs