

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICKY R TRAVIS
Claimant

APPEAL NO. 10A-UI-09254-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/25/10
Claimant: Appellant (2)**

Iowa Code Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

Vicky Travis filed a timely appeal from the June 22, 2010, reference 02, decision that she was overpaid \$903.00 for the three-week period of April 25, 2010 through May 15, 2010 based on an Agency conclusion that she had failed to report or had incorrectly reported vacation pay. After due notice was issued, a hearing was held on August 13, 2010. Ms. Travis participated. Exhibit One and Department Exhibits D-1 through D-5 were received into evidence. The administrative law judge took official notice of the Agency's record of wages reported by the claimant and benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 10A-UI-09253-JTT. The administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether Ms. Travis was overpaid \$903.00 in benefits for the three-week period of April 25, 2010 through May 15, 2010.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Vicky Travis established a claim for unemployment insurance benefits that was effective April 25, 2010 and received benefits. Ms. Travis' weekly benefit amount was set at \$374.00. In addition, for any week in which Ms. Travis was deemed eligible for regular benefits, she would also qualify for an additional \$25.00 in federal stimulus benefits. For the week ending May 1, 2010, Ms. Travis reported \$114.00 in wages and received \$353.00 in regular benefits and \$25.00 in federal stimulus benefits. For the weeks ending May 8, 2010 through June 12, 2010, Ms. Travis received \$374.00 in regular benefits and an additional \$25.00 in federal stimulus benefits. For the weeks ending June 19 and 26, Workforce Development approved \$374.00 in regular benefits, but withheld or offset those benefits against what the Agency deemed an overpayment of benefits. For the week ending July 3, 2010, Workforce Development approved \$374.00 in regular benefits, disbursed \$219.00 of those benefits to Ms. Travis, and offset \$155.00 of the benefits. For the weeks ending July 10, 2010 through August 7, 2010, Workforce Development returned to disbursing full benefits to Ms. Travis.

The overpayment at issue on appeal was prompted by a disqualification decision that has been reversed on appeal. See Appeal Number 10A-UI-09253-JTT.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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 section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Because the disqualification decision that prompted the overpayment decision has been reversed on appeal, the administrative law judge concludes that Ms. Travis was not overpaid \$903.00 in benefits for the three-week period of April 25, 2010 through May 15, 2010.

DECISION:

The Agency representative's June 22, 2010, reference 02, decision is reversed. The claimant was not overpaid \$903.00 in benefits for the three-week period of April 25, 2010 through May 15, 2010.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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