

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ISMETA SISIC

Claimant

APPEAL NO. 11A-UI-04971-WT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OMEGA CABINETS

Employer

OC: 12/19/10

Claimant: Appellant (4R)

Section 96.3-7 – Overpayment
871 IAC 24.13(2)A – Holiday Pay

STATEMENT OF THE CASE:

Claimant appealed a fact-finding decision dated April 5, 2011, reference 01, that concluded claimant was ineligible for the week ending December 25, 2010 for unemployment insurance benefits in the amount of \$99.00. A telephone hearing was scheduled and held on May 10, 2011, pursuant to due notice. Claimant participated. Employer participated by Jodie Schaffer. Exhibit A was received into evidence.

ISSUE:

The issue is whether vacation pay was deducted for the correct period and amount from unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works for Omega Cabinets and is still employed. During the week of December 19, 2010, Omega Cabinets experienced a temporary layoff. Claimant received eight hours of holiday pay for December 24, 2010. Claimant testified that she claimed too much holiday pay when she reported her pay to Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that it is impossible to determine whether the holiday pay was deducted correctly and this matter must be remanded to the Unemployment Insurance Division for a resolution.

871 IAC 24.13(2)a provides:

(2) Deductible payments from benefits. The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96):

a. Holiday pay. However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

The evidence is clear that the claimant received \$99.28 of holiday pay for the week ending December 25, 2010. This amount should be deducted from her unemployment benefits pursuant to the calculations specified above. The claimant over-reported holiday pay for the week in question. She reported \$199.00.

The overpayment is vacated and the matter is remanded to the Unemployment Insurance Division to determine whether additional benefits are owed to the claimant.

DECISION:

The April 5, 2011, reference 01, decision is remanded to the Unemployment Insurance Division to calculate the claimant's benefits in a manner consistent with this decision.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/css