

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHERRI R YASENCHOK**  
Claimant

**APPEAL NO. 15A-UI-04162-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/22/15  
Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

Sherri Yasenchok filed a timely appeal from the March 30, 2015, reference 02, decision that she was overpaid \$448.00 for the benefit week that ended February 28, 2015 and \$448.00 for the benefit week that ended March 14, 2015, based on an Agency conclusion that she had received wages and/or vacation pay that was deductible from her unemployment insurance benefit eligibility for those weeks. After due notice was issued, a hearing was held on May 5, 2015. The hearing in his matter was consolidated with the hearing in Appeal Number 15A-UI-04161-JTT. Ms. Yasenchok participated. Exhibits A through J were received into evidence. The administrative law judge took official notice of the Agency's administrative record of wages reported by the claimant and benefits disbursed to the claimant (DBRO).

**ISSUE:**

Whether Ms. Yasenchok was overpaid \$448.00 in benefits for the week ending February 28, 2015 based on receipt of wages or wages in lieu of notice for that week that equaled or exceeded her weekly benefit amount.

Whether Ms. Yasenchok was overpaid \$448.00 in benefits for the week ending March 14, 2015 based on receipt of vacation pay for that week that exceeded her weekly benefit.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Sherri Yasenchok separated from her full-time office manager position with Riverbend Holdings, L.L.C., on Monday, February 23, 2015. Ms. Yasenchok's final salary was \$769.23 per week. Though Ms. Yasenchok only worked approximately 30 minutes for the employer on Monday, February 23, 2015 and did not perform any addition work that week, the employer paid Ms. Yasenchok her full salary for that week in a check issued to Ms. Yasenchok on March 6, 2015 for the pay period of February 22-28, 2015. The employer later paid Ms. Yasenchok \$769.23 in vacation pay for the week that ended March 14, 2015. See Appeal Number 15A-UI-04161-JTT

Ms. Yasenchok established a claim for unemployment insurance benefits that was effective February 22, 2015. Workforce Development calculated Ms. Yasenchok's weekly benefit amount to be \$448.00. When Ms. Yasenchok made her weekly claim for the week ending February 28, 2015, she reported zero wages and Workforce Development disbursed \$448.00 in benefits to her for that week. When Ms. Yasenchok made her weekly claim for the weeks that ended March 14, 2015, she reported zero wages and Workforce Development disbursed \$448.00 in weekly benefits for those week.

During the weeks that ended March 28 and April 4, 2015, Workforce Development approved \$448.00 in benefits, but withheld the benefits to recover that the Agency at that point deemed an overpayment of benefits for the weeks ending February 28 and March 14, 2015.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, then the claimant must repay the benefits and Workforce Development must recover the benefits even if the claimant was not at fault in receiving the benefits.

An individual shall be disqualified for benefits for any week with respect to which the individual is receiving or has received wages in lieu of notice, a separation allowance, severance pay, or dismissal pay. Iowa Code section 96.5(5)(a).

Iowa Administrative Code rule 871-24.13(3)(c) provides as follows:

24.13(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

The \$769.23 in weekly wages that the employer paid to Ms. Yasenchok for the week that ended February 28, 2015 were in the form of wages in lieu of notice and were fully deductible from Ms. Yasenchok's unemployment insurance benefits for that week. Because the wages in lieu of notice exceeded Ms. Yasenchok's \$448.00 weekly unemployment insurance benefit amount, Ms. Yasenchok's unemployment insurance benefit eligibility was reduced to zero for that week. The \$448.00 in unemployment insurance benefits that Ms. Yasenchok received for the week that ended February 28, 2015 constituted an overpayment of benefits that Ms. Yasenchok was required to repay.

Because Ms. Yasenchok received \$448.00 in unemployment insurance benefits for the week that ended March 14, 2015 and was later deemed to have received \$769.23 in vacation pay for that same week, the \$448.00 in unemployment insurance benefits constituted an overpayment of benefits that Ms. Yasenchok was required to repay.

Workforce Development has recovered the overpayment amounts for the weeks ending February 28, 2015 and March 14, 2014, through and offsetting of benefits that would otherwise have been disbursed to Ms. Yasenchok for the weeks ending March 28, 2015 and April 4, 2015. Accordingly, the outstanding overpayment has been reduced to zero.

**DECISION:**

The March 30, 2015, reference 02, decision is affirmed. The claimant was overpaid was overpaid \$448.00 in benefits for the week ending February 28, 2015 based on receipt of wages or wages in lieu of notice for that week that equaled or exceeded her weekly benefit amount. The claimant was overpaid \$448.00 in benefits for the week ending March 14, 2015 based on receipt of vacation pay for that week that exceeded her weekly benefit. The claimant was obligated to repay the overpaid amounts. The overpaid amounts have been recovered.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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