

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LANCE R ODEGAARD
Claimant

APPEAL NO: 06A-UI-08892-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/28/06 R: 02
Claimant: Appellant (2)**

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated August 29, 2006, reference 02, that concluded he was overpaid unemployment insurance benefits in the amount of \$337.00 as a result of wages earned that the claimant failed to report. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was held on September 20, 2006. The claimant participated personally.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, finds that: The claimant correctly reported wages to the Agency during a layoff period. The wages were in the form of a bonus that was based on services performed by the claimant prior to his layoff.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is not overpaid unemployment insurance benefits.

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.

871 IAC 24.13(4)b provides:

(4) Nondeductible payments from benefits. The following payments are not considered as wages and are not deductible from benefits:

b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

The administrative law judge concludes that the claimant was not overpaid unemployment insurance benefits in the amount of \$337.00 pursuant to Iowa Code section 96.3-7.

DECISION:

The decision of the representative dated August 29, 2006, reference 02, is reversed. The claimant was not overpaid unemployment insurance benefits in the amount of \$337.00.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/cs