

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANICE L WARD**  
Claimant

**APPEAL NO. 06A-UI-09888-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INTERSTATE BRANDS CORP**  
Employer

**OC: 12/25/05 R: 04  
Claimant: Appellant (1)**

Section 96.5(5) – Severance Pay  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The claimant, Janice Ward, filed an appeal from a decision dated October 6, 2006, reference 02. The decision found the claimant overpaid \$648.00 in unemployment benefits due to the receipt of severance pay. After due notice was issued, a hearing was held by telephone conference call on October 24, 2006. The claimant participated on her own behalf. The employer, Interstate Brands, did not provide a telephone number where a representative could be contacted and did not participate..

**ISSUE:**

The issue is whether the claimant is overpaid.

**FINDINGS OF FACT:**

Janice Ward was employed by Interstate Brands from October 24, 1989 until November 17, 2005. At the time of separation she was a full-time production employer working 40 hours per week at an hourly wage of \$14.80.

At the time of separation she was paid \$5,955.30 in severance pay. This equals 10 weeks of pay at her last rate of pay. Ms. Ward filed a claim for unemployment benefits with an effective date of December 25, 2005, and reported three weeks of severance, and then received \$324.00 in weekly benefits beginning with the week ending January 21, 2006.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

- a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.
- b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.
- c. A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", "b", or "c", were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

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.

The claimant received severance pay equal to 10 weeks of wages. From her last day of work this would encompass a period of time ending January 28, 2006. She received benefits for the two-week period ending January 28, 2006, to which she was not entitled and these must be recovered in accordance with the provisions of Iowa Law.

**DECISION:**

The representative's decision of October 6, 2006, reference 02, is affirmed. Janice Ward is overpaid \$648.00 for the two-week period ending January 28, 2006, due to the receipt of severance pay.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw