

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSHUA BULLINGTON
Claimant

APPEAL NO. 14A-UI-10281-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/20/14
Claimant: Appellant (4)**

Iowa Code § 96.5-7 - Receipt of Vacation Pay
Iowa Code § 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Joshua Bullington (claimant) appealed an unemployment insurance decision dated September 26, 2014, (reference 03), which held that he was overpaid \$285.00 in unemployment insurance benefits. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on October 28, 2014. The claimant participated in the hearing. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant was overpaid \$285.00 in unemployment benefits due to the receipt of vacation pay for the two-week period ending May 3, 2014.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant separated from the employer on April 18, 2014. His last paycheck covered the pay period ending April 19, 2014, and in addition to 80 hours of regular wages and paid time off (PTO), he received a final pay-out of 12.05 PTO hours in the amount of \$131.22.

The claimant filed his claim effective April 20, 2014, and reported \$96.00 in wages from a new employer that week. He reported the same amount of wages for the following week ending May 3, 2014. The claimant's weekly benefit amount is \$296.00 and he received \$274.00 in benefits for two weeks ending May 3, 2014.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant was overpaid benefits due to the receipt of vacation pay. When an employer notifies the department within ten days of receiving a notice of claim that an amount of vacation pay, either paid or owed, is to be applied to a specific period, a sum equal to the wage of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation until the amount of the vacation pay is

exhausted. 871 IAC 16(1). If the employer does not timely designate the vacation period after receiving the notice of claim, the payment made by the employer to the claimant or an obligation to make a payment shall not be deemed wages for any period in excess of one week and such payment shall not be deducted from unemployment benefits for more than one week.

Since the employer has no control on when a claimant receives vacation pay when the payment is not directly deposited into a bank account, the date the claimant requests the vacation hours is when the vacation is owed. Just as wages are to be reported when they are earned, vacation pay should be reported for the time period the employer becomes obligated to pay out the vacation pay.

The claimant received \$96.00 in wages for the week ending April 26, 2014, so was only entitled to \$274.00. The additional PTO amount of \$131.50 attributed to that week reduces his weekly benefit amount to \$142.50. Consequently, the claimant is overpaid benefits in the amount of \$131.50 due to the receipt of vacation pay.

DECISION:

The unemployment insurance decision dated September 26, 2014, (reference 03), is modified in favor of the appellant. The claimant was overpaid benefits in the amount of \$131.50 for the week ending April 26, 2014.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css