

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIO A MOLINA RODRIGUEZ
Claimant

APPEAL NO. 13A-UI-09881-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

OC: 12/02/12
Claimant: Appellant (2)

Section 96.3-7 – Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated August 21, 2013, reference 01, which held that the claimant was overpaid job insurance benefits in the amount of \$268.00 for one week between June 30, 2013 and July 6, 2013 because he incorrectly reported wages earned with IAC Iowa City LLC. After due notice was provided, a telephone hearing was held on October 1, 2013. The claimant participated. Although duly notified, the employer did not participate.

ISSUE:

At issue in this matter is whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds: Mario Molina Rodriguez opened a claim for unemployment insurance benefits with an effective date of December 2, 2012. Mr. Molina Rodriguez reopened a claim for benefits between June 30 and July 6, 2013 because work was not available to him with his employer during that week. Mr. Molina Rodriguez reported that had received \$227.00 in holiday pay for two days of that week and the claimant was determined to be eligible to receive unemployment insurance benefits in the amount of \$268.00 for the week in question.

Subsequently, the employer indicated that the claimant had received vacation pay in the amount of \$554.72 for the week ending July 6, 2013 and Mr. Molina Rodriguez was determined to have been overpaid unemployment insurance benefits in the amount of \$268.00 because he had failed to report the additional holiday pay which exceeded his benefit amount.

Mr. Molina Rodriguez specifically denies receiving vacation pay from this employer in the amount of \$554.72 for the period in question. The claimant maintains in his sworn testimony that he only was paid \$227.00 for that week by IAC Iowa City LLC. The claimant further testified that he did not receive any other pay from his employer during the period in question.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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 administrative law judge concludes the claimant is not overpaid unemployment insurance benefits in the amount of \$268.00. The claimant correctly reported wages earned with IAC Iowa City LLC for the week ending July 6, 2013 reporting that he had been paid \$227.00 for two days holiday pay that week. The administrative law judge finds the claimant's testimony that he received no additional pay from this employer for the week ending July 6, 2013 to be credible. There being no evidence to the contrary the administrative law judge concludes that the claimant properly reported his wages earned with IAC Iowa City LLC for the week in question and concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$268.00.

DECISION:

The representative's decision dated August 21, 2013, reference 01, is reversed. The claimant is not overpaid unemployment insurance benefits in the amount of \$268.00 for the week ending July 6, 2013. The claimant properly reported the income he received from IAC Iowa City LLC.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed