

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EMMA M HORTON
Claimant

APPEAL NO: 06A-UI-09047-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/13/06 R: 04
Claimant: Appellant (1)**

Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Emma Horton (claimant) appealed a representative's September 7, 2006 decision (reference 03) that concluded she was overpaid unemployment insurance benefits in an amount of \$220.00 for the one-week period ending August 19, 2006, due to the receipt of vacation pay. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was held on September 25, 2006. The claimant participated personally.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits for the one-week period ending August 19, 2006, due to the receipt of vacation pay.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 23, 1992, as a part-time home care aide. The claimant's last day of work was July 16, 2006. She was paid \$916.00 in severance pay and \$332.00 in paid time off. The latter covered the week ending August 19, 2006.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the claimant is overpaid unemployment insurance benefits for the one-week period ending August 19, 2006, due to the receipt of vacation pay.

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 administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$220.00 pursuant to Iowa Code section 96.3-7 as the claimant received vacation pay for the one-week period ending August 19, 2006.

DECISION:

The representative's September 7, 2006 decision (reference 03) is affirmed. The claimant is overpaid unemployment insurance benefits in an amount of \$220.00 for the one-week period ending August 19, 2006, due to the receipt of vacation pay.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs