

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

JANET R COPP  
20217 – 230<sup>TH</sup> ST  
HAWKEYE IA 52147-8167

HENNESSEY FAMILY DENTISTRY PC  
9219 UNIVERSITY AVE  
CEDAR FALLS IA 50613

Appeal Number: 05A-UI-05839-CT  
OC: 04/24/05 R: 04  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3(7) – Recovery of Overpayments  
Section 96.5(5) – Severance Pay  
Section 96.5(7) – Vacation Pay

STATEMENT OF THE CASE:

Janet Copp filed an appeal from a representative's decision dated May 25, 2005, reference 03, which held she had been overpaid \$79.00 in job insurance benefits for the week ending May 21, 2005 because of her receipt of severance pay from Hennessey Family Dentistry. After due notice was issued, a hearing was held by telephone on July 8, 2005. Ms. Copp participated personally. The employer participated by Anne Hennessey, DDS.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Copp's last day of work for Hennessey Family Dentistry was April 21, 2005. In connection with her separation, she was paid for 32 hours of unused vacation time. She was paid at a rate of \$12.00 per hour for total gross vacation pay of \$384.00. Ms. Copp was also paid 72 hours of severance pay, which was intended to cover two weeks. Her usual workweek was 36 hours. The gross amount of the vacation pay was \$864.00. Ms. Copp filed a claim for job insurance benefits effective April 26, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Ms. Copp's receipt of vacation and severance pay has on her claim for job insurance benefits. Both severance and vacation pay are deducted from job insurance benefits on a dollar-for-dollar basis. The payments are deducted during the period they are intended to cover, without regard to when actually paid or received.

Ms. Copp had 32 hours of vacation pay to be deducted beginning with the first workday following the last day worked. Therefore, four hours of vacation pay are deducted for Friday, April 22 as Ms. Copp was only scheduled to work four hours on Fridays. Vacation pay for April 22 would have no effect on her claim as the claim was not filed until the following week. Three full days of vacation pay are deducted for April 25, 26, and 27, leaving four hours to be deducted for April 28. Four hours of severance pay are deducted to cover the remainder of the day for April 28 and another four hours are deducted for Friday, April 29. Inasmuch as the full week was covered by a combination of vacation pay and severance pay, Ms. Copp was not entitled to benefits for the week ending April 30, 2005. No benefits were paid for the week and, therefore, there is no resulting overpayment for the week.

After the week ending April 30, Ms. Copp had 64 hours of severance pay remaining. Of that balance, 36 hours are deducted for the week ending May 7, resulting in ineligibility for the week. The remaining 28 hours are deducted during the week ending May 14. At \$12.00 per hour, the 28 hours represented \$336.00 in pay. Because this amount is in excess of Ms. Copp's weekly job insurance benefit of \$280.00, she was not eligible for benefits for the week ending May 14. No benefits were paid to her for either the week ending May 7 or that ending May 14. Therefore, there is no overpayment for either week.

Ms. Copp's vacation and severance payments were totally exhausted by the week ending May 14. Therefore, she did not have any payments to be deducted for the week ending May 21. As such, it must be concluded that she was not overpaid for the week. The \$79.00 overpayment previously assessed has been recovered by withholding from benefits owed Ms. Copp for the week ending May 28, 2005. Based on the decision herein, the amount recovered now constitutes an underpayment.

#### DECISION:

The representative's decision dated May 25, 2005, reference 03, is hereby reversed. Ms. Copp was not overpaid job insurance benefits for the week ending May 21, 2005. Because the overpayment has been recovered in full, Ms. Copp has been underpaid \$79.00 for the week ending May 28, 2005.

cfc/sc