

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY ANN RYAN
Claimant

APPEAL NO. 09A-UI-07226-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY NATIONAL BANK
Employer

**Original Claim: 01/04/09
Claimant: Appellant (4)**

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Mary Ann Ryan (claimant) appealed a representative's May 4, 2009 decision (reference 03) that concluded she was not eligible to receive benefits for the weeks ending January 17 through 31, 2009, because she received severance pay from Community National Bank (employer) that should be attributed to these weeks. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 2, 2009. The claimant participated in the hearing. On May 26, the employer sent the Appeals Section a letter indicating the employer would not be participating at the hearing. The information in the letter was read into the record. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

What week or weeks should the claimant's severance pay be attributed?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of January 4, 2009. Her last day of work was January 6, 2009. The claimant filed a claim for benefits for the weeks ending January 17 through January 31. She reported her vacation and lump sum severance payment during the week ending January 31. The claimant received her maximum weekly benefits of \$361.00 for the weeks ending January 17 and 24. She did not receive any benefits for the week ending January 31 because the amount she reported in vacation and severance pay exceeded her weekly benefit amount.

The employer issued the claimant a check on January 30 for her vacation and lump sum severance payment. The employer reported the claimant had received vacation pay of \$640.00 and a lump sum severance payment of \$1,920.00.

REASONING AND CONCLUSIONS OF LAW:

Severance pay must be deducted from a claimant's maximum weekly benefit amount. Iowa Code § 96.5-5. Vacation pay is deducted before severance pay. 871 IAC 24.13(1). If neither the claimant nor the employer designates the period to which a severance payment applies, the Department determines the period of time the severance payment applies in accordance with this regulation. 871 IAC 24.13(1).

Since the claimant reported the severance and vacation pay during the week ending January 31, she designated that her severance pay is attributed to this week. As a result, the severance pay is only attributed to the week ending January 31, 2009. The claimant is not eligible to receive benefits for this week, because the severance pay exceeds her maximum weekly benefit amount.

DECISION:

The representative's May 4, 2009 decision (reference 03) is modified in the claimant's favor. The severance pay is attributed to only the week ending January 31, 2009. Therefore, the claimant is eligible to receive benefits for the weeks ending January 17 and 24, 2009. She is not eligible to receive benefits for the week ending January 31, because her severance payment exceeded her maximum weekly benefit amount.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw