

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH M HAVIG
Claimant

APPEAL NO: 10A-UI-16351-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REDNECK INC
Employer

OC: 10/24/10
Claimant: Respondent (1)

Iowa Code § 96.5-5-b – Deductions from Unemployment Insurance Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's November 19, 2010 determination (reference 02) that held the claimant's receipt of workers' compensation benefits was not deductible from unemployment insurance benefits. The claimant participated in the hearing. Allison Kimes appeared on the employer's behalf. 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:

Should the claimant's receipt of long-term disability benefits be deducted from his weekly unemployment insurance benefits?

FINDINGS OF FACT:

The claimant had been working for the employer, when he went on short-term disability for a non-work-related injury or illness. The claimant was on a leave of absence when he received short-term disability benefits, June 4, through September 3, 2010.

When an employee is unable to work, he can potentially receive long-term disability benefits for two years. In late August 2010, the claimant started receiving long-term disability benefits from the employer. He received long-term disability benefits of \$1,077.00 for August 26 through September 26 and \$1344.00 for September 26 through October 26. As of the date of the hearing, the claimant was still receiving long-term disability benefits.

The claimant established a claim for unemployment insurance benefits during the week of October 24, 2010. He has filed weekly claims. The claimant anticipates receiving social security benefits in January. When or if he receives these benefits, his long-term disability benefits may be reduced.

REASONING AND CONCLUSIONS OF LAW:

The law provides that temporary disability benefits under workers compensation shall be deducted. Iowa Code § 96.5-5(b). The claimant IS NOT receiving benefits under workers compensation. Therefore Iowa Code § 96.5-5(b) does not apply.

Long-term disability benefits typically mean a claimant is not able to work. Another representative's determination (reference 03) has already looked at this issue and determined the claimant was able to and available for work as of October 24, 2010.

Neither the statutes nor regulations state that long-term disability benefits should be deducted from a claimant's weekly benefit amount. Therefore, the long-term disability benefits the claimant receives do not reduce his maximum weekly benefit amount.

DECISION:

The representative's November 19, 2010 determination (reference 02) is affirmed. The long-term disability benefits the claimant receives are not deducted from his unemployment insurance benefit amount.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css