

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANICE N STOCKER
Claimant

APPEAL NO. 08A-UI-08941-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE CONSTRUCTION GROUP LLC
Employer

**OC: 08/03/08 R: 02
Claimant: Appellant (1)**

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Janice N. Stocker filed a timely appeal from an unemployment insurance decision dated September 30, 2008, reference 03, that denied unemployment insurance benefits to her for the three weeks ending August 23, 2008, upon a finding that she had received severance pay covering these weeks from Pinnacle Construction Group. After due notice was issued, a telephone hearing was held October 22, 2008, with Alicia Perez participating for the employer. Ms. Stocker did not respond to the hearing notice until after the hearing had ended.

ISSUE:

Must the claimant's unemployment insurance benefits be delayed because of severance pay from Pinnacle Construction Group?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Janice N. Stocker, a salaried employee, last worked for Pinnacle Construction Group on July 14, 2008. In connection with her separation from employment, she received severance pay in the gross amount of \$4,260.64 covering 248 hours, or 31 workdays. Ms. Stocker filed a claim for unemployment insurance benefits during the week of August 3, 2008. Her weekly benefit amount is \$389.00.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's unemployment insurance benefits must be delayed because of her receipt of severance pay from Pinnacle Construction Group. The administrative law judge concludes that it must.

Iowa Code section 96.5-5 requires that severance pay be deducted from unemployment insurance benefits dollar for dollar for the week or weeks to which the severance is attributed. The evidence establishes that Ms. Stocker last worked for the employer on July 14, 2008, and received 31 days of severance pay in the amount of \$137.44 per day. The severance pay covers all workdays beginning July 15, 2008, and ending August 26, 2008. Since the weekly

amount of severance pay exceeds Ms. Stocker's weekly benefit amount, she is not eligible for unemployment insurance benefits through the week ending August 23, 2008, with the remaining two days of severance pay being deducted from the claimant's benefits payable for the week ending August 30, 2008. Rounded to the nearest dollar, the claimant is entitled to receive benefits in the amount of \$114.00 for the week ending August 30, 2008.

DECISION:

The unemployment insurance decision dated September 30, 2008, reference 03, is affirmed. Benefits are withheld for the three weeks ending August 23, 2008. See companion decision 08A-UI-08942-AT for the unemployment insurance consequences of the severance pay attributed to the week ending August 30, 2008.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw