

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RANDY J HOHENADEL**  
Claimant

**APPEAL NO: 06A-UI-10292-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SENTRY INS A MUTUAL CO**  
Employer

**OC: 09/17/06 R: 04  
Claimant: Appellant (2)**

Section 96.5-5 – Severance Payment

**STATEMENT OF THE CASE:**

Randy J. Hohenadel (claimant) appealed a representative's October 11, 2006 decision (reference 03) that concluded he was ineligible to receive unemployment insurance benefits for the weeks ending October 28 and November 4, 2006, because he received or was entitled to receive a severance payment from Sentry Ins. A Mutual Company (employer) and the severance payment should be attributed to these weeks. A hearing was scheduled on November 6, 2006. The claimant appeared for the hearing. The employer responded to the hearing notice and was contacted. The employer was not available for the hearing. After the hearing was closed, the employer contacted the Appeals Section and reported the employer did not dispute anything the claimant presented. During the hearing, Claimant's Exhibit A (a copy of a settlement agreement and release between the claimant and employer) was offered and admitted as evidence. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant ineligible to receive benefits for the weeks ending October 28 and November 4, 2006, because he received or is entitled to receive severance pay for these weeks?

**FINDINGS OF FACT:**

The claimant's last day of work for the employer was September 11, 2006. The employer offered the claimant \$2,126.00 if the claimant released certain claims against the employer. As of the date of the hearing, the claimant signed the Settlement Agreement and Release, but still had the opportunity to revoke the agreement. As of the date of the hearing, the claimant had not received \$2,126.00.

The claimant established a claim for benefits during the week of September 17, 2006. The claimant is not eligible to receive benefits until the week of September 22 because of vacation pay he received from the employer. See also decision for appeal 06A-UI-10291-DWT.

**REASONING AND CONCLUSIONS OF LAW:**

If a claimant receives a severance payment, the payment reduces the claimant's weekly benefit amount in the week the severance payment is attributed. Iowa Code § 96.5-5. If the parties complete the Settlement Agreement and Release contract, the money the employer would pay the claimant is not deductible for unemployment insurance purposes. Money received for entering into this agreement is not a severance payment or deductible from the claimant's unemployment insurance benefits. Instead this money is the claimant's payment for releasing the employer from legal claims the claimant could have pursued against the employer. Therefore, if the claimant receives the contractual payoff of \$2,126.00, this money cannot be used to reduce any weekly benefit amount and has no affect on the claimant's receipt of unemployment insurance benefits. The claimant is eligible to receive benefits for as of September 22, 2006, provided he meets all other eligibility requirements. The claimant is eligible to receive benefits for the weeks ending October 28 and November 4, 2006.

**DECISION:**

The representative's October 11, 2006 decision (reference 03) is reversed. If the claimant receives \$2,126.00 for entering into a contractual agreement to release the employer from various claims, this money cannot be used to deduct the claimant's weekly benefit amount for any week the claimant files a claim for benefits. The claimant is eligible to receive benefits for the weeks ending October 29 and November 4, 2006, provided he meets all other eligibility requirements.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs