

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY A AHRENS
Claimant

APPEAL NO. 08A-UI-04447-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

B & B PROPANE INC
Employer

OC: 05/13/07 R: 03
Claimant: Appellant (2)

Section 96.5-5 – Severance Pay Deduction for Correct Period

STATEMENT OF THE CASE:

Gary Ahrens has appealed a representative's decision dated May 5, 2008, reference 05, which held him not eligible to receive unemployment insurance benefits for the week ending April 19, 2008 because the claimant received or was entitled to receive severance pay which equaled or exceeded his weekly benefit amount. After due notice a telephone conference hearing was scheduled for and held on May 22, 2008. Mr. Ahrens participated personally. Participating for the employer was Ms. Bobbi Kruse, Human Resources Manager. Exhibit One was received into evidence.

ISSUE:

The issue in this matter is whether the claimant is eligible to receive unemployment insurance benefits for the week ending April 19, 2008 but whether the claimant received or was entitled to receive severance pay which equaled or exceeded his weekly benefit amount.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer until Friday, April 11, 2008. At the time of separation the claimant was given a final paycheck in the total amount of \$556.20. The employer incorrectly reported the total amount of severance pay to Iowa Workforce Development.

Of the \$556.20, \$333.72 was allocated to severance pay for Monday, April 14; Tuesday, April 15, and Wednesday, April 16, 2008. The remainder of the claimant's pay, \$222.48 was for the final two days of his employment, April 10 and 11, 2008. The claimant's severance pay for the week ending April 19, 2008 did not equal or exceed his weekly benefit amount for the week in question.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant's severance pay equaled or exceeded his benefit amount for the week ending April 19, 2008. It does not. The evidence in the record establishes that the claimant inadvertently provided incorrect information to Iowa Workforce Development on the separation/severance pay. The claimant actually received \$333.72 in severance pay for the week ending April 19, 2008.

871 IAC 24.13(3)c provides:

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

As the severance pay the claimant received or was entitled to receive did not exceed his weekly benefit amount for the week in question, the claimant is eligible to receive unemployment insurance benefits, providing that he meets other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated May 5, 2008, reference 05, is hereby reversed. The claimant's severance pay for the week ending April 19, 2008 did not equal or exceed his weekly benefit amount. The claimant is eligible to receive unemployment insurance benefits, provided that he meets other eligibility requirements of Iowa.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs