

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

BRIAN W BROWN
1258 US HWY 169
TINGLEY IA 50863

IOWA SELECT FARMS INC
811 S OAK
IOWA FALLS IA 50126-8003

Appeal Number: 04A-UI-06639-AT
OC: 05-16-04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Brian W. Brown filed a timely appeal from an unemployment insurance decision dated June 7, 2004, reference 02, which denied benefits to him for the week ending May 22, 2004 upon a finding that he was entitled to receive severance pay for the week in question. After due notice was issued, a telephone hearing was held July 19, 2004 with Mr. Brown participating. Human Resources Specialist Kristin Stanley participated for the employer, Iowa Select Farms.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Brian W. Brown's employment with Iowa Select Farms ended on April 24, 2004. In connection with his separation from employment, he received \$1,150.55 in vacation pay which was attributed by the employer to the period April 26 through May 7, 2004. He also received two weeks of severance pay in the gross amount of \$1,128.27 covering the period from May 10 through May 21, 2004. Mr. Brown filed an unemployment insurance claim effective May 16, 2004. His weekly benefit amount is \$322.00.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Brown is eligible for unemployment insurance benefits for the week ending May 22, 2004 because of the severance pay he received. The administrative law judge concludes that benefits must be withheld because the last week of severance pay is attributable to the week in question.

Iowa Code Section 96.5-5 deals with the unemployment insurance consequences of various payments received by an individual in connection with the individual's separation from employment. It requires that severance pay be deducted dollar for dollar from an individual's unemployment insurance benefits for the week or weeks to which the severance pay is attributed. The evidence in this record establishes that Mr. Brown's severance pay in the gross amount of \$1,128.27 is attributable to the two weeks from May 10 through May 21, 2004. Since half the severance pay exceeds Mr. Brown's weekly benefit amount for unemployment insurance purposes, he is not eligible for any unemployment insurance benefits that week.

DECISION:

The unemployment insurance decision dated June 7, 2004, reference 02, is affirmed. The claimant is ineligible for unemployment insurance benefits for the week ending May 22, 2004.

tjc/tjc