

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JON M RICE
Claimant

APPEAL NO. 09A-UI-08203-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REES ASSOCIATES INC
Employer

OC: 02/01/09
Claimant: Appellant (1)

Section 96.5(7) – Vacation Pay

STATEMENT OF THE CASE:

Jon Rice filed an appeal from a representative's decision dated June 3, 2009, reference 01, which held he was not eligible to receive job insurance benefits for the one week ending February 7, 2009 because of his receipt of vacation pay from Rees Associates, Inc. After due notice was issued, a hearing was held by telephone on June 23, 2009. Mr. Rice participated personally. The employer participated by Monte Hamilton, Human Resources Manager.

ISSUE:

At issue in this matter is whether Mr. Rice's vacation pay was correctly deducted.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Rice's last day of work for Rees Associates, Inc. was January 29, 2009. In conjunction with his separation, he was paid for one day of personal leave and 44 hours of unused vacation time. The gross amount of the personal leave pay was \$92.32. The gross amount of the vacation pay was \$507.76.

Mr. Rice filed a claim for job insurance benefits effective February 1, 2009. He reported vacation pay for the week ending February 7, 2009. The amount he reported exceeded his weekly job insurance benefit amount plus \$15.00 and, therefore, he was not paid job insurance benefits for the week. The employer filed a report with Workforce Development on February 12, 2009 indicating that Mr. Rice received \$312.12 in vacation pay and allocating it to the period from February 1 through February 4, 2009. The employer did not make a correction to this report until June 12, 2009.

REASONING AND CONCLUSIONS OF LAW:

Vacation pay is deductible from job insurance benefits on a dollar-for-dollar basis. An employer has the opportunity to designate the period to which a vacation payment is to be applied. If an employer fails to timely designate a vacation period, the entire amount of the vacation pay is applied to the one-week period starting with the first workday after the last day worked. In the

case at hand, the employer designated Mr. Rice's vacation period as February 1 through February 4. The employer also indicated an incorrect vacation pay amount. Given these errors in the employer's report, the administrative law judge concludes that the employer failed to timely designate a vacation period beyond February 7, 2009. Accordingly, no deduction will be made for the \$46.16 the employer now designates as being allocated to February 9, 2009.

After considering all of the evidence, the administrative law judge concludes that the representative's decision denying benefits for the one week ending February 7, 2009 is correct and shall be affirmed. Mr. Rice properly reported vacation pay and did not receive benefits for the week. Therefore, there is no overpayment for the week ending February 7, 2009.

DECISION:

The representative's decision dated June 3, 2009, reference 01, is hereby affirmed. Mr. Rice was not eligible to receive job insurance benefits for the week ending February 7, 2009 because of his receipt of vacation pay from Rees Associates, Inc. Benefits are allowed thereafter, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css