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

GILBERTO J ALDAPE
Claimant

WELLS DAIRY INC
Employer

APPEAL NO. 09A-UI-07908-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

Original Claim: 11/23/08
Claimant: Appellant (1)

Section 96.5(7) – Vacation Pay

STATEMENT OF THE CASE:

Gilberto Aldape filed an appeal from a representative's decision dated May 20, 2009, reference 01, which held he was not eligible to receive job insurance benefits for the week ending January 3, 2009, because of his receipt of vacation pay from Wells Dairy, Inc.. After due notice was issued, a hearing was held by telephone on June 17, 2009. Mr. Aldape participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Aldape was eligible to receive job insurance benefits for the week ending January 3, 2009.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Aldape filed an initial claim for job insurance benefits effective November 23, 2008, as Wells Dairy, Inc. was closed for the Thanksgiving holiday. He did not claim job insurance benefits during the Christmas shut-down, because he took vacation time. Mr. Aldape has not claimed benefits since the week ending November 29, 2008.

REASONING AND CONCLUSIONS OF LAW:

Mr. Aldape did not claim job insurance benefits in January of 2009. Therefore, the question of whether he had vacation pay that should be deducted from his job insurance benefits for weeks in January is moot. The question of his eligibility for benefits in November of 2008 is not in issue.

DECISION:

The representative's decision dated May 20, 2009, reference 01, is hereby affirmed. Mr. Aldape was not eligible to receive and did not claim benefits for the week ending January 3, 2009.

_____
Carolyn F. Coleman
Administrative Law Judge

_____
Decision Dated and Mailed

cfc/kjw