

**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**

**TODD D WINTER
PO BOX 8294
CEDAR RAPIDS IA 52408**

**WEST SIDE TRANSPORT INC
4201 – 16TH AVE SW
PO BOX 9129
CEDAR RAPIDS IA 52409-9120**

**Appeal Number: 05A-UI-05101-CT
OC: 04/24/05 R: 03
Claimant: Appellant (2)**

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(7) – Vacation Pay

STATEMENT OF THE CASE:

Todd Winter filed an appeal from a representative's decision dated May 10, 2005, reference 04, which held he was ineligible to receive job insurance benefits for the one week ending April 30, 2005 because of his receipt of vacation pay from West Side Transport, Inc. Due notice was issued scheduling the matter for a telephone hearing to be held on June 2, 2005. The employer did not respond to the notice of hearing. Mr. Winter responded to the notice of hearing but, based on documents received prior to the hearing, a hearing was deemed unnecessary.

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: Mr. Winter was separated from employment with West Side Transport, Inc. on April 8, 2005. In connection with his separation, he was paid for 80 hours of vacation time. The employer designated the vacation pay to cover the period from April 11 through April 24, 2005. Mr. Winter filed his claim for job insurance benefits effective April 24, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect, if any, Mr. Winter's receipt of vacation pay has on his entitlement to job insurance benefits. He became separated from employment on Friday, April 8, 2005. The 80 hours of vacation pay would be exhausted with the two weeks ending April 23, 2005. Therefore, there was no remaining vacation pay to be deducted on the claim filed effective April 24, 2005. See Iowa Code section 96.5(7). Accordingly, the representative's decision shall be reversed.

DECISION:

The representative's decision dated May 10, 2005, reference 04, is hereby reversed. Mr. Winter did not have vacation pay to be deducted as of the effective date of his claim. Benefits are allowed effective April 24, 2005, provided he satisfies all other conditions of eligibility.

cfc/tjc