

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSIE S HILLS
Claimant

APPEAL NO. 08A-UI-02118-NT

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

**PARK VIEW CARE CENTER
OF BURLINGTON LLC**
Employer

**OC: 01/13/08 R: 04
Claimant: Appellant (1)**

Section 96.5-7 – Disqualifying Compensation

STATEMENT OF THE CASE:

Jessie Hills filed a timely appeal from the February 21, 2008, reference 01, decision that she was not eligible to receive unemployment insurance benefits for the period between January 13, 2008, and January 19, 2008, because she had received disqualifying compensation that equaled or exceeded her unemployment insurance benefit amount. After due notice was issued, a hearing was held by telephone on March 18, 2008. Ms. Hills participated. Although duly notified, the employer did not respond to the notice of hearing. Official notice was taken of the claimant's administrative file. Exhibits One and Two were received into evidence.

ISSUE:

The issue in this matter is whether the claimant received disqualifying compensation and whether Iowa Workforce Development appropriately determined the period to which the compensation should be applied.

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: On January 16, 2008, the claimant was separated from her employment when the facility closed. For the pay period between January 6 and January 12, 2008, the claimant received full pay from Park View Care Center. For the period of time between January 13 and January 19, 2008, the claimant received three days' pay and two days' accrued personal time off, a form of vacation pay, but no severance pay. As the remuneration received by the claimant exceeded her weekly benefit amount, she was determined to be not eligible to received unemployment insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that disqualifying compensation received from Park View Care Center was properly applied to the benefit period in question.

The evidence in the record establishes that in addition to three days' pay for the period of time between January 13 and January 19, 2008, the claimant also received two days' other compensation that was disqualifying in the form of accrued personal time of, a form of vacation pay.

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

c. A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", "b", or "c", were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

For the reasons stated herein, the administrative law judge concludes that the agency properly determined and applied the disqualifying compensation to the period of time between January 13 and January 19, 2008. As the payment the claimant received that week from her former employer equaled or exceeded her weekly benefit amount, she was not eligible to receive unemployment insurance benefits.

DECISION:

The representative's decision dated February 21, 2008, reference 01, is hereby affirmed. The claimant received disqualifying pay that equaled or exceeded her weekly benefit amount for the period ending January 19, 2008.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw/kjw