

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN K GERKEN

Claimant

APPEAL NO: 14A-UI-10288-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QHC MITCHELLVILLE LLC

Employer

OC: 03/02/14

Claimant: Appellant (1)

Iowa Code § 96.5(7) – Vacation Pay/PTO Pay

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 25, 2014 determination (reference 02) that held him ineligible to receive benefits for the week ending March 8, 2014, because he received or was entitled to receive vacation/PTO pay this week that exceeded his maximum weekly benefit amount. The claimant participated at the October 23 hearing. Dennis Coleman and Becky Underwood, an administrative assistant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits for the week ending March 8, 2014, but is eligible to receive partial benefits for the week ending March 15, 2014.

ISSUE:

To what week or weeks should the claimant's PTO be attributed?

FINDINGS OF FACT:

The claimant worked 5.5 hours on March 3, 2014. The employer suspended him on March 3. The employer informed him he was discharged on March 6, 2014. The claimant's hourly wage was \$14.50. The employer paid him for 62.92 hours of PTO.

The claimant established a claim for benefits during the week of March 2, 2014. His maximum weekly benefit amount is \$434. He filed claims for the weeks ending March 8 and 15, 2014.

REASONING AND CONCLUSIONS OF LAW:

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation/PTO pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation/PTO pay and designates the dates to which the vacation/PTO pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation/PTO pay. If the amount of vacation/PTO pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation/PTO pay applied to the week. Iowa Code § 96.5(7), 871 IAC 24.16.

Excused personal leave, also referred to as casual pay or random pay or PTO, is a personal leave with pay granted to an employee for absence from the job because of personal reasons. It is to be treated as vacation pay and is fully deductible. 871 IAC 24.16.

The claimant's wages and vacation are attributed as follows:

Week ending	Wages	Vacation/PTO Pay
March 8	\$ 79.75	\$580
March 15	Zero	\$332
Total		\$912

Based on the above table, the claimant is not eligible to receive benefits for the week ending March 8, but is eligible to receive partial benefits for the week ending March 15, 2014.

DECISION:

The representative's September 25, 2014 determination (reference 02) is affirmed. The claimant is not eligible to receive benefits for the week ending March 8, because the PTO pay attributed to this week, (\$580) exceeds the claimant's maximum weekly benefit amount of \$434. The claimant is eligible to receive partial benefits for the week ending March 15, 2014.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs