

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFERY C STARBECK
Claimant

APPEAL NO: 14A-UI-08056-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAHR BEVERAGE INC
Employer

OC: 05/11/14
Claimant: Respondent (2)

Iowa Code § 96.5(7) – Vacation Pay

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 25, 2014 determination (reference 02) that held the claimant received vacation pay that was attributed to the week ending May 17, 2014. The employer appealed because the claimant did not receive and was not entitled to receive any vacation pay when his employment ended on May 9. The claimant participated at the October 13 hearing in Waterloo, Iowa. Jane Fahr, the human resource director, 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 did not receive any vacation pay and he is eligible to receive benefits for the week ending May 17, 2014.

ISSUE:

Did the claimant receive any vacation pay that should be attributed to the week ending May 17, 2014?

FINDINGS OF FACT:

In November 2013, the employer hired the claimant to work full time as the employer's premise manager. The employer discharged the claimant on May 9, 2014. As a result of the claimant's length of employment, he had not earned and was not entitled to receive any vacation pay. The employer did not pay him any vacation pay. Any payment the claimant received after May 9, were wages he earned before May 9.

The claimant filed a claim for benefits for the weeks ending May 17, 2014. He did not earn any wages, receive or was entitled to receive any vacation pay for this week.

REASONING AND CONCLUSIONS OF LAW:

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation 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 pay. If the amount of vacation 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 pay applied to the week. Iowa Code § 96.5(7), 871 IAC 24.16.

The claimant did not receive nor was he entitled to receive any vacation payment from the employer. As a result, the claimant is eligible to receive his maximum weekly benefit amount for the week ending May 17, if he is eligible to receive benefits for this week.

DECISION:

The representative's July 25, 2014 determination (reference 02) is reversed. The employer did not pay the claimant any vacation for the week ending May 17, 2014. The claimant is not legally entitled to receive any vacation pay from the employer. The claimant did not earn any wages for the week ending May 17, 2014. The claimant is eligible to receive benefits for the week ending May 17, 2014, provided he is otherwise eligible.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css