

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD E PERARDI
Claimant

APPEAL NO. 08A-UI-10902-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

HILLCREST FAMILY SERVICES
Employer

**Original Claim: 09/14/08
Claimant: Appellant (5)**

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Donald E. Perardi filed a timely appeal from an unemployment insurance decision dated November 4, 2008, reference 03, that denied unemployment insurance benefits to him for the three weeks ending October 4, 2008, upon a finding that he had received or was entitled to receive vacation pay for the weeks in question. After due notice was issued, a hearing was held in Dubuque, Iowa. Testimony was first given on December 3, 2008. The hearing was concluded on June 18, 2009. This matter is considered on a consolidated record with Appeal Number 08A-UI-09468-A.

ISSUE:

Did the claimant receive vacation pay or severance pay in amounts exceeding his weekly benefit amount for unemployment insurance purposes for the three weeks ending October 4, 2008?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Donald E. Perardi's employment with Hillcrest Family Services ended on September 15, 2008. He filed a claim for unemployment insurance benefits effective September 14, 2008. His weekly benefit amount is \$375.00. In connection with his separation from employment, he received an additional \$2,401.81 covering the period September 15, 2008 through October 1, 2008, payment for the remainder of his pay period.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Perardi is eligible for unemployment insurance benefits for the period September 14, 2008 through October 4, 2008. The administrative law judge concludes that he is not eligible. His analysis differs from that of the agency representative because the evidence submitted establishes that the payment received by Mr. Perardi was not for vacation time, but was in essence severance pay. Iowa Code section 96.5-5 requires that vacation pay be deducted from unemployment insurance benefits for the week or weeks to which it is

attributed. The payment, divided by 15, amounts to \$160.07 per day. Attributing this amount to each of the days between September 16 and October 1, 2008 results in a weekly amount exceeding Mr. Perardi's weekly benefit amount for unemployment insurance purposes. Therefore, he is not eligible for unemployment insurance benefits for those weeks.

DECISION:

The unemployment insurance decision dated November 4, 2008, reference 03, is modified. Benefits are withheld for the three weeks ending October 4, 2008, because the claimant received severance pay equaling or exceeding his unemployment insurance benefit amount for each of the weeks in question.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

srs/kjw