

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

RICKY K COFER
403 SE C AVE
GILMORE CITY IA 50541

HUMBOLDT SPRINGS WATER CO INC
610 – 13TH ST N
HUMBOLDT IA 50548

Appeal Number: 04A-UI-01021-SWT
OC 12/28/03 R 01
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:

The claimant appealed an unemployment insurance decision dated January 27, 2004, reference 01, that concluded he was ineligible to receive unemployment insurance benefits for the week ending January 10, 2004, due to the receipt of vacation pay. A telephone hearing was held on February 23, 2004. The claimant participated in the hearing. Michael Allen participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer until January 2, 2004. The employer and the claimant agree that the claimant did not receive a payment of vacation pay attributable to any period following the claimant's last day of work.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 28, 2003. The employer responded to the notice of claim within ten calendar days of the date that it was mailed to the employer. In its response, the employer designated the period from January 1, 2003 through December 31, 2003, as the period to which the vacation pay was to apply.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant received vacation pay deductible from his unemployment insurance benefits.

Under the unemployment insurance law, an individual is disqualified from receiving unemployment insurance benefits for any week in which he claims unemployment insurance benefits and has vacation pay attributable to the same week. Iowa Code Section 96.5-7. Employer are permitted to designate the period to which the vacation pay is attributable if the designation is made within ten calendar day after the employer receives notice of the filing of the individual's claim. 871 IAC 24.16(1).

In this case, the claimant the employer designated the period to which the pay was attributable as January 1, 2003 through December 31, 2003. The employer and the claimant agree that the claimant did not receive a payment of vacation pay attributable to any period following the claimant's last day of work. No vacation pay should be deductible from the claimant's benefits.

DECISION:

The unemployment insurance decision dated January 27, 2004, reference 01, is reversed. The claimant was eligible to receive unemployment insurance benefits for the week ending January 10, 2004.

saw/b