

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KAREN D LARISON**  
Claimant

**APPEAL NO. 11A-EUCU-00185-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 07/12/09**  
**Claimant: Appellant (1)**

Section 96.5-7 – Vacation Pay

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 11, 2011, reference 03, which held claimant ineligible for unemployment insurance benefits for the two weeks ending July 25, 2009. After due notice, a telephone conference hearing was scheduled for and held on March 17, 2011. Claimant participated. Employer participated by Mary Eggenburg, Benefits Coordinator. The record consists of the testimony of Karen Larison; the testimony of Mary Eggenburg; and Claimant's Exhibits A and B. Official notice is taken of agency records.

**ISSUE:**

Whether vacation pay was deducted for the correct period.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was terminated by the employer on July 13, 2009. At the time of her termination, the claimant was entitled to \$1,470.00 in vacation pay. The employer filed a response to the notice of claim which allocated the vacation pay from July 14, 2009 through July 28, 2009. This designation was not correct. The claimant's vacation pay should have been allocated from July 14, 2009, through July 24, 2009.

**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 an employer does not designate the dates to which vacation pay applies by the ten-day deadline, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. 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 section 96.5-7, 871 IAC 24.16. If the employer makes the original designation of the vacation period in a timely manner, the employer may extend the vacation period by designating the period of the extension in writing to the department before the period of extension begins. 871 IAC 24.26(2).

In this case, the testimony from the employer's witness, Mary Eggenburg, established that the employer did not properly designate the vacation pay on the original response to the notice of claim. The correct designation was July 14, 2009 through July 24, 2009, or nine days. The representative ruled that the claimant was not eligible for the two weeks ending July 25, 2009. This decision would be correct, even though the designation has been revised. The claimant would be eligible for benefits for the week ending August 1, 2009.

**DECISION:**

The decision of the representative dated February 11, 2011, reference 03, is affirmed.. The claimant is not eligible for benefits for the two weeks ending July 25, 2009, due to receipt of vacation pay.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/css