

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARLENE R WERNER
Claimant

APPEAL NO. 12A-UI-03277-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRAW-HILL INC
Employer

OC: 07/03/11
Claimant: Appellant (4)

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Arlene R. Werner filed a timely appeal from an unemployment insurance decision dated March 20, 2012, reference 02, that ruled she was ineligible for unemployment insurance benefits for the two weeks ending February 25, 2012, upon a finding that she was entitled to receive vacation pay for the weeks in question. After due notice was issued, a telephone hearing was held April 16, 2012, with Ms. Werner participating. Exhibit A was admitted into evidence on her behalf. The employer elected not to participate in the hearing.

ISSUE:

Did the claimant receive vacation pay for the two weeks ending February 25, 2012?

FINDINGS OF FACT:

Arelene R. Werner's employment with McGraw-Hill, Inc. ended on February 6, 2012. She did not work after December 30, 2011. For the pay period December 26, 2011, through January 8, 2012, she was paid for 48 regular hours, 16 hours of bereavement leave, and 16 hours of holiday pay. For the pay period January 9, through January 22, 2012, she received 80 hours of severance pay. For the pay period January 23, 2012, through February 5, 2012, she was paid 80 hours of terminal vacation pay. In addition, she was paid for an additional 88 hours of regular severance pay and an addition 40 hours of vacation pay. Ms. Werner was also paid \$4,976.96 in exchange for her agreement not to bring legal action against the employer as a result of the separation.

Ms. Werner had filed a claim for unemployment insurance benefits during the week of July 3, 2011. She received unemployment insurance benefits through the week ending August 20, 2011. She filed an additional claim for benefits effective February 12, 2012. She received unemployment insurance benefits in the gross amount of \$1,156.00 for the four weeks ending March 10, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-7 requires that vacation pay be deducted from unemployment insurance benefits dollar-for-dollar for the week or weeks to which the vacation pay is attributed. The evidence in the record establishes that Ms. Werner received 40 hours of vacation in connection with her separation from employment, 80 hours having been paid to her for weeks prior to the separation. Since the weekly amount of her vacation pay exceeds her weekly benefit amount for unemployment insurance benefits, Ms. Werner is not eligible for unemployment insurance benefits for the week ending February 18, 2012.

DECISION:

The unemployment insurance decision dated March 20, 2012, reference 02, is modified. The claimant is ineligible for unemployment insurance benefits for the week ending February 18, 2012, because she was entitled to receive vacation pay for the week in question.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw