

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT J DEVENS**  
Claimant

**APPEAL NO. 09A-UI-09766-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ESSEX CORPORATION**  
Employer

**Original Claim: 03/01/09  
Claimant: Appellant (2)**

Section 96.5-7 – Vacation Pay

**STATEMENT OF THE CASE:**

Robert J. Devens filed a timely appeal from an unemployment insurance decision dated July 2, 2009, reference 02, that denied unemployment insurance benefits to him for the three weeks ending April 4, 2009, upon a finding that he had received or was entitled to receive vacation pay attributable to those three weeks. After due notice was issued, a telephone hearing was held July 22, 2009, with Mr. Devens participating. This matter is considered on a consolidated record with 09A-UI-09765-AT and 09A-UI-09767-AT.

**ISSUE:**

Did the claimant receive deductible vacation pay?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Robert J. Devens received a payout of accrued but unused PTO in connection with his separation from employment. The company consolidates its vacation and sick time into one paid-time-off program.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether Mr. Devens received deductible vacation pay for the three weeks ending April 4, 2009. He did not.

While Iowa Code section 96.5-7 requires that vacation pay be deducted dollar-for-dollar from an individual's unemployment insurance benefits, it is clear from companion provisions in the Iowa Administrative Code that PTO pay is not deductible from benefits when paid out at the time of a separation from employment. Benefits should not be withheld for the three weeks ending April 4, 2009.

**DECISION:**

The unemployment insurance decision dated July 2, 2009, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits for the three weeks ending April 4, 2009.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

kjw/kjw