

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BEVERLY K KAISER
Claimant

APPEAL NO: 14A-UI-10295-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTIVE SENIOR CITIZENS OF ALGONA
Employer

OC: 04/13/14
Claimant: Appellant (2)

Section 96.5-5-a – Severance Pay

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 30, 2014, reference 01, that concluded she was ineligible to receive unemployment insurance benefits for the weeks ending April 26 and May 3, 2014, due to the receipt of severance pay. A telephone hearing was held on October 23, 2014. The claimant participated in the hearing. Darald Goetz participated in the hearing on behalf of the employer with Jan Sowers. Exhibit A-1 was admitted into evidence at the hearing.

ISSUE:

Did the claimant receive deductible severance pay and was it properly deducted?

FINDINGS OF FACT:

The claimant worked for the employer from October 2006 to April 17, 2014. Her rate pay was \$247.80 per week for 30 hours of work per week.

After her separation from employment, the claimant received payment of \$495.60 from the employer as a bonus. The payment did not come from the normal payroll and the employer did not withhold any taxes from the payment.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 13, 2014. Her weekly benefit amount was \$128. 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 reported a payment of \$495.60 for two weeks of severance pay. The treasurer and secretary of the employer's board of directors asserted during the hearing that the payment did not come from the normal payroll and the employer did not withhold any taxes from the payment and considered it as a bonus or gift.

The claimant reported her \$75 in wages for the week ending April 19 and received \$85 in benefits. She reported the \$248 per week for the \$495.60 payment she received for the weeks ending April 26 and May 3 and she received zero benefits for each week.

REASONING AND CONCLUSIONS OF LAW:

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

Under the unemployment insurance law, a person is disqualified from receiving unemployment insurance benefits for any week in which he claims unemployment insurance benefits and has severance pay of over his weekly benefit amount attributable to the same week. Iowa Code §§ 96.5-5-a.

In this case, the employer's representative said the payment was a bonus or gift not severance. The unemployment rules provide that the following payments are not considered as wages and are not deductible from benefits: "Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits." Iowa Admin. Code r. 871-24.13(4)b. The claimant's bonus was based on the services she performed before she claimed benefits and is not deductible.

The claimant, therefore, was eligible for full benefits for the week ending April 19 and was eligible for full benefits for the week ending April 26 and May 3.

DECISION:

The unemployment insurance decision dated September 30, 2014, reference 01, is reversed. The claimant was eligible for full benefits for the weeks between April 13 and May 3, 2014.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs