

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TORANNA S WERMES

Claimant

APPEAL NO. 11A-UI-09908-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC

Employer

OC: 11/28/10

Claimant: Respondent (3)

Section 96.5-7 – Vacation Pay
871 IAC 24.13(3) – Paid Time Off

STATEMENT OF THE CASE:

The employer filed a timely appeal from an unemployment insurance decision dated July 25, 2011, reference 05, that denied benefits to the claimant upon a finding that the claimant had received vacation pay in connection with her separation from employment. After reviewing all matters of record, the administrative law judge concludes that a formal hearing is not required. This decision is based on information in the employer's correspondence.

ISSUE:

Did the claimant receive deductible vacation pay in connection with her separation from employment?

FINDINGS OF FACT:

The claimant did not receive vacation pay in connection with her separation from employment. She received a payout of unused paid time off which could have been used during employment for a variety of reasons.

REASONING AND CONCLUSIONS OF LAW:

Although Iowa Code section 96.5-7 states that vacation pay is deductible from an individual's unemployment insurance benefits for the week or weeks to which it is attributed, the Iowa Administrative Code distinguishes between vacation pay and pay for excused personal leave. See 871 IAC 24.13(3)b. The administrative law judge concludes from the evidence in the record that the payment received by the claimant was non-deductible.

DECISION:

The unemployment insurance decision dated July 25, 2011, reference 05, is modified. The claimant did not receive vacation pay. Benefits are allowed.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css