

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIANN GROOM
Claimant

APPEAL NO. 12A-UI-03244-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRAW-HILL INC
Employer

**OC: 02/12/12
Claimant: Appellant (1)**

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Mariann Groom filed a timely appeal from an unemployment insurance decision dated March 20, 2012, reference 01, that ruled she was ineligible for unemployment insurance benefits for the three weeks ending March 3, 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 24, 2012 with Ms. Groom participating. Exhibit A was admitted into evidence on her behalf. The employer, McGraw-Hill, Inc., elected not to participate in the hearing.

ISSUE:

Did the claimant receive vacation pay attributed to the three weeks ending March 3, 2012?

FINDINGS OF FACT:

Mariann Groom's employment with McGraw-Hill, Inc. ended on February 6, 2012. She filed a claim for unemployment insurance benefits effective February 12, 2012. Her weekly benefit amount is \$330.00. On February 21, 2012 the agency notified McGraw-Hill of the claim. The Notice of Claim instructed the employer to file a response on or before March 2, 2012. On February 27, 2012 the company reported that Ms. Groom had received 160 hours of vacation pay in the gross amount of \$2,102.08. It also reported that Ms. Groom would receive standard severance pay covering 10.7 weeks of her salary, in the gross amount of \$5,622.85. She received an additional 10.7 weeks of compensation in return for her agreement waiving any right to file legal action against the company in connection with her separation from employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-7 establishes the unemployment insurance treatment of vacation pay received by an individual in connection with the separation from employment. The statute gives an employer ten days from the date of notification of the claim to give the agency the amount of vacation pay and the period of time to which the vacation pay should be attributed. The law

requires that the agency attribute the vacation pay as indicated by the employer if it makes a timely response. In the absence of a timely response, the law provides that all vacation pay should be attributed to the first week of the unemployment.

The administrative law judge concludes from the evidence in the record that the employer responded to the agency within ten days of the Notice of Claim. Therefore, the law requires that the administrative law judge attribute the vacation pay as indicated by the employer. Ms. Groom received four weeks of vacation pay but did not file her claim for unemployment insurance benefits until the week of February 12, 2012. The weekly amount of vacation pay exceeded Ms. Groom's unemployment insurance weekly benefit amount. Therefore, she is not eligible to receive unemployment insurance benefits for the three weeks ending March 3, 2012.

DECISION:

The unemployment insurance decision dated March 20, 2012, reference 01, is affirmed.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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