

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JEAN L MILLER
37688 HWY 52
GUTTENBERG IA 52052

CASEY'S MARKETING COMPANY
% TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06994-CT
OC: 05/22/05 R: 04
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(7) – Vacation Pay

STATEMENT OF THE CASE:

Jean Miller filed an appeal from a representative's decision dated June 27, 2005, reference 01, which held she was not eligible to receive job insurance benefits for the two weeks ending June 4, 2005 because of her receipt of vacation pay from Casey's Marketing Company. After due notice was issued, a hearing was held by telephone on July 27, 2005. Ms. Miller participated personally. The employer participated by Connie Smith, Area Supervisor.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Miller's last day of work for Casey's was May 16, 2005. In connection with her separation, she was paid for 59 hours of accrued vacation time. The gross amount of the vacation pay was \$577.61. Ms. Miller's workday was a minimum of nine hours. She filed her claim for job insurance benefits effective May 22, 2005 and is eligible for a weekly benefit of \$239.00. She was not paid any other deductible amounts in conjunction with her separation.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Ms. Miller's receipt of vacation pay has on her claim for job insurance benefits. Vacation pay is to be attributed to each workday following the last day worked until the entire amount of the payment is exhausted. Iowa Code section 96.5(7). Because Ms. Miller worked nine-hour days, 36 hours of vacation pay would be deducted for May 17, 18, 19, and 20. Ms. Miller did not claim benefits for the week ending May 21 and, therefore, the vacation pay for that week would have no effect on her claim. The remaining 23 hours of vacation pay would be deducted the week ending May 28. Ms. Miller did not have vacation pay to be deducted beyond the week ending May 28, 2005.

DECISION:

The representative's decision dated June 27, 2005, reference 01, is hereby modified. Ms. Miller is entitled to partial benefits for the week ending May 28, 2005 after deduction of vacation pay. Benefits are allowed in full effective May 29, 2005, provided she satisfies all other conditions of eligibility.

cc/kjf