

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMANDA E SCHWANZ
Claimant

USPS
Employer

APPEAL 16A-UI-11389-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/18/16
Claimant: Appellant (2)

Iowa Code § 96.5(5)b – Workers' Compensation/Temporary Total Disability Benefits
Iowa Admin. Code r. 871-24.13(3)d – Fully Deductible Payments from Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 11, 2016, (reference 04) unemployment insurance decision that deducted workers' compensation benefits from unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 4, 2016. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate.

ISSUE:

Is the claimant eligible for unemployment insurance benefits while receiving temporary total disability workers' compensation benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time letter carrier through September 19, 2016. She had a work-related injury on July 11, 2016. Her workers' compensation temporary total benefits (TTD) ended upon the separation from employment. She remains under medical care but without restrictions as of October 24, 2016. Before that she had restrictions against lifting over 30 pounds, working more than four hours and lifting above shoulder. She is seeking retail work as she had worked at Wal-Mart before the USPS. She has been searching for work since the separation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not receive TTD while receiving UI benefits.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits:

5. *Other compensation.*

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this subparagraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.13(3)d provides:

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

d. Workers' compensation, temporary disability only. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which the payment is paid.

Since claimant is not receiving TTD while claiming unemployment insurance benefits, she is eligible without deductibility related to this issue.

DECISION:

The October 11, 2016, (reference 04) unemployment insurance decision is reversed. Claimant is eligible for unemployment insurance benefits without deduction since she is not receiving TTD.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs