

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JONATHAN W SULLIVAN**  
Claimant

**APPEAL NO: 14A-UI-08839-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LONG LINES LLC**  
Employer

**OC: 05/18/14**  
**Claimant: Appellant (4)**

Iowa Code § 96.5(5) – Severance Pay

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 8, 2014 determination (reference 12) that held him ineligible to receive benefits until the week of September 14, 2014, because of the severance pay the employer paid him. The Benefits Bureau inadvertently sent reference 06 to an employer the claimant had not worked for. This error was noticed before a scheduled hearing on September 12. The Benefits Bureau then issued a determination on September 8 (reference 12) that was sent to the employer, the correct employer, and addressed the severance pay issue.

The claimant participated at a September 23 hearing. Linda Fischer appeared on the employer's behalf. Based on the administrative record, evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits until the week of August 31, 2014, because he received severance pay that must be attributed to the weeks between May 24 and August 30, 2014,

**ISSUE:**

Did the claimant receive severance pay and what weeks should the severance pay attributed to?

**FINDINGS OF FACT:**

The claimant's last day of work for the employer was May 16, 2014. The claimant was working full time and most recently earned an hourly rate of \$10.06 an hour. During his employment, the claimant had at one time earned an hourly rate plus a commission, but commissions had been eliminated before May 16, 2014.

The employer paid the claimant \$517.40 in vacation pay or for 51.44 hours of accrued vacation hours. The employer also paid the claimant a lump sum severance payment of \$5,313. The employer calculated the severance payment on how long the claimant had worked for the employer plus an additional three months.

The claimant established a claim for benefits during the week of May 18, 2014. The claimant's June 17, 2014 corrected monetary determination informed him that his maximum weekly benefit amount is \$270 a week. This monetary determination included the claimant's Nebraska wages.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not eligible to receive unemployment insurance benefits for any week in which he claims unemployment insurance benefits and has severance pay attributable to the same week. Iowa Code § 96.5(5)a. Employers are permitted to designate the period to which the severance pay is attributable if the designation is made within ten calendar day after the employer receives notice of the filing of the individual's claim. 871 IAC 24.13(1). The employer testified the claimant received three months of severance pay; this means he received 13.2 weeks of severance pay. ( $\$5,313 \text{ divided by } 402.4 = 13.2$ ) During the week ending May 24, \$402.40, or 40 hours of vacation pay is attributed to this week and \$115 of vacation pay is attributed to the week ending May 31. See decision for appeal 14A-UI-08838. This means a severance payment of \$402.40 is attributed to the week ending June 7 through August 30, or 13 weeks or three months of severance pay. For the week ending September 6, \$81 in severance pay should be attributed to this week.

**DECISION:**

The representative's September 8, 2014 determination (reference 12) is modified in the claimant's favor. The claimant received 13 weeks or three months of severance pay. A severance payment of \$402.40 is pay is attributed to the weeks ending June 7 through August 30, 2014. For the week ending September 6, \$81 severance pay is attributable to this week.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css