

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUSAN G SCHOONHOVEN**  
Claimant

**APPEAL NO. 06A-UI-10114-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SENTRY INS A MUTUAL CO**  
Employer

**OC: 09-17-06 R: 04**  
**Claimant: Appellant (2)**

Section 96.5-5 – Severance Pay

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 11, 2006, reference 02, decision that deducted separation pay from the claimant's unemployment insurance benefits. After due notice was issued, a hearing was held on October 31, 2006. The claimant did participate. The employer did participate through Javier Sotelo. Department's Exhibit D-1 was received.

**ISSUE:**

Did the claimant receive separation pay that should be deducted from her unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated on September 14, 2006, and received vacation pay in the amount of \$1,403.00 based upon a rate of pay at \$17.54 per hour. The employer did designate the period of time to which the vacation pay was to be applied. The claimant has not received any separation pay because she will not sign the settlement agreement the employer requires. The claimant has not received any severance or separation pay. The claimant has indicated that she will not sign the settlement contract at any time in the future.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the severance pay was deducted for the incorrect period.

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

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

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

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

c. 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 paragraph, 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.

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 paragraphs "a", "b", or "c", 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.

871 IAC 24.13(3)c 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:

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

The claimant has not received any separation pay, therefore, the entire amount of severance or separation pay was incorrectly deducted for the two-week period ending October 28, 2006.

**DECISION:**

The October 11, 2006, reference 02, decision is reversed. The severance pay was deducted for the incorrect period.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/cs