

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

BARB A MENEGUIN
2720 ZWINGLE CT
DUBUQUE IA 52003

OPERATION NEW VIEW
ATTN FISCAL OFFICER
1473 CENTRAL AVE
DUBUQUE IA 52001-4853

Appeal Number: 05A-UI-07049-SWT
OC: 06/12/05 R: 04
Claimant: Appellant (2)

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:

The claimant appealed an unemployment insurance decision dated July 6, 2005, reference 01, that concluded she was ineligible to receive unemployment insurance benefits for the one week ending June 18, 2005, due to the receipt of vacation pay. A telephone hearing was held on July 26, 2005. The claimant participated in the hearing. Joy Davis participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer until June 2, 2005. At the time of her separation from employment, the claimant received 26.5 hours of vacation pay, which was intended to cover from June 6 through June 9, 2005.

The claimant filed a claim for unemployment insurance benefits with an effective date of June 12, 2005. The employer responded to the notice of claim within ten calendar days of the date that it was mailed to the employer. In its response, the employer mistakenly designated the period from June 10 through June 19, 2005, as the period to which the vacation pay was to apply.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant received vacation pay deductible from her unemployment insurance benefits.

Vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If an employer does not designate the dates to which vacation pay applies by the ten-day deadline, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code section 96.5-7.

The claimant is eligible for unemployment insurance benefits for the week ending June 18, 2005, because she received no vacation pay attributable to that week.

DECISION:

The unemployment insurance decision dated July 6, 2005, reference 01, is affirmed. The claimant is eligible to receive unemployment insurance benefits for the week ending June 18, 2005.

saw/kjw