

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL HOUSER**  
Claimant

**APPEAL NO: 06A-UI-09080-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INFO USA MARKETING INC**  
Employer

**OC: 08/06/06 R: 12**  
**Claimant: Appellant (1)**

Section 96.5-5 – Receipt of Severance

**STATEMENT OF THE CASE:**

Michael Houser (claimant) appealed an unemployment insurance decision dated August 30, 2006, reference 02, which held that he was not eligible for unemployment insurance benefits for the four-week period ending September 16, 2006 due to the receipt of severance pay from Info USA Marketing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 26, 2006. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted and, therefore, did not participate. This hearing was held simultaneously with appeal number 06A-UI-09079-BT since it involves both parties and addressed an overpayment based on the receipt of vacation pay. Exhibit D-1 and Claimant's Exhibits A and B were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the severance pay was deducted for the correct period?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time general sales manager from September 2003 through July 31, 2006. After his separation, he received 87.99 hours of vacation in the amount of \$2,961.20 and 160 hours of severance in the amount of \$5,384.62. These payments represent six weeks and one day at \$33.65 per hour and the payments extend through September 12, 2006. For the week ending September 16, 2006, the claimant was paid for 16 hours of vacation/severance in the amount of \$538.00, while his weekly benefit amount is \$337.00.

## REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the severance pay was properly deducted. For the reasons that follow, the administrative law judge concludes the severance pay was deducted for the correct 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 received \$5,384.62 in severance pay for the four-week period ending September 16, 2006. He is not eligible to receive unemployment insurance benefits during that time.

**DECISION:**

The unemployment insurance decision dated August 30, 2006, reference 02, is affirmed. Severance pay was deducted correctly. The claimant is not eligible to receive unemployment insurance benefits for the four-week period ending September 16, 2006.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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