

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHILLIS A SEALS

Claimant

APPEAL NO: 15A-UI-01179-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LUTHER CARE SERVICES / HOMES FOR
THE AGING**

Employer

OC: 11/23/14

Claimant: Appellant (2)

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Phillis A. Seals (claimant) appealed a representative's January 22, 2015 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits due to the receipt of severance pay from Luther Care Services / Homes for the Aging (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 24, 2015. This appeal was consolidated for hearing with one related appeal, 15A-UI-01180-DT. The claimant participated in the hearing. A review of the Appeals Bureau's conference call system indicates that the employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant receive severance pay and was it properly allocated and deducted?

FINDINGS OF FACT:

The claimant worked full time as a salaried administrator, earning about \$2,896.77 gross biweekly. She was discharged on November 25, 2014. She was offered and did accept a severance package under which she would receive her regular pay through February 20, 2015, plus an additional loan forgiveness. However, this was conditioned on her waiving her right to sue or to file a civil rights complaint against the employer.

The claimant established an unemployment insurance benefit year effective November 23, 2014.

REASONING AND CONCLUSIONS OF LAW:

If severance pay was received by the claimant and was properly allocated to a period of unemployment, it must be deducted from the claimant's unemployment insurance benefit eligibility.

Iowa Code section 96.5-5-a 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.

The employer's requirement that claimant waive all claims and release it from liability means that the payment was not just for severance, but was in consideration for a liability waiver, which is not a disqualifying payment. Therefore, the claimant did not receive any disqualifying severance pay from the employer due to the waiver of all claims in the agreement.

DECISION:

The representative's January 22, 2015 decision (reference 04) is reversed. The claimant was eligible for unemployment insurance benefits effective November 23, 2014, and did not receive severance pay deductible against weeks thereafter.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs