

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY R SCHWERIN
Claimant

APPEAL NO. 08A-UI-08926-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**UAW
LOCAL 1237**
Employer

**OC: 08/24/08 R: 05
Claimant: Respondent (1)**

871 IAC 23.3(3)(c) – Union Reimbursement for Time Lost From Regular Employment

STATEMENT OF THE CASE:

United Auto Workers Local 1237 filed a timely appeal from the September 25, 2008, reference 01, decision that allowed benefits and that indicated that United Auto Workers Local 1237 could be charged for benefits. After due notice was issued, a hearing was held on October 20, 2008. Claimant Mary Schwerin participated. Bruce Scheitlin, Local 1237 President, represented the employer.

ISSUES:

Whether the compensation Ms. Schwerin received for the work she performed for United Auto Workers Local 1237 constitutes wages and may be considered when determining Ms. Schwerin's eligibility for unemployment insurance benefits.

Whether United Auto Workers Local 1237 may be charged for unemployment insurance benefits paid to Ms. Schwerin.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mary Schwerin was a member, and functioned as the Financial Secretary for United Auto Workers Local 1237, for three to five years until August 26, 2008, when she was laid off from her regular employment at Federal-Mogul Ignition Company (employer account number 291977). As Financial Secretary, Ms. Schwerin was called upon by President Bruce Scheitlin to perform work for the union that took her away from her duties at Federal-Mogul. Federal-Mogul did not compensate Ms. Schwerin for the time she spent away from her regular duties in furtherance of the Local's business. The Local compensated Ms. Schwerin for her lost wages. During the third quarter of 2007, the Local paid Ms. Schwerin \$528.00. During the fourth quarter of 2007, the Local paid Ms. Schwerin \$1,793.00. During the first quarter of 2008, the Local paid Ms. Schwerin \$1,161.00. During the second quarter of 2008, the Local paid Ms. Schwerin \$1,028.00. United Auto Workers Local 1237 reported the compensation for these quarters, and for prior quarters, to Iowa Workforce Development. Workforce Development treated the

compensation as wages and deemed the Local a base period employer for unemployment insurance purposes.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 23.3(3)(c) provides as follows:

The term “wages” shall include:

c. Union members. Members of a union, subject to the direction and control of the union and acting on behalf of the union, are considered employees of the union with respect to the services performed. Payments made to them by the union as reimbursement for time lost from their regular employment are considered wages.

The weight of the evidence in the record indicates that Ms. Schwerin was a member of the U.A.W. Local 1237 at the time she performed work on behalf of the union and subject to the direction and control of the union. The union reimbursed Ms. Schwerin for lost time from her regular employment. Under the Administrative Code rule cited above, the administrative law judge concludes that the compensation Ms. Schwerin received from U.A.W. Local 1237 constituted wages for purposes of determining Ms. Schwerin’s eligibility for unemployment insurance benefits. The administrative law judge further concludes that the U.A.W. Local 1237 was an employer and, therefore, is subject to potential liability for benefits paid to Ms. Schwerin.

DECISION:

The Agency representatives September 25, 2008, reference 01, decision is affirmed. The compensation the claimant received from U.A.W. Local 1237 constituted wages for purposes of determining the claimant’s eligibility for unemployment insurance benefits. The U.A.W. Local 1237 was an employer and, therefore, is subject to potential liability for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs