

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYNNETTE BEGHTOL**  
Claimant

**APPEAL NO: 12A-UI-09603-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**J BRENT ALTFILLISCH OD PC**  
Employer

**OC: 03-18-12**  
**Claimant: Appellant (1)**

Section 96 5-5 – Severance Pay

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 7, 2012, reference 03, decision that determined her severance pay was correctly deducted from her benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 31, 2012. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

The issue is whether the claimant's severance pay was correctly deducted.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with J. Brent Altfillisch OD PC through March 14, 2012, when she received severance pay in the amount of \$4,800.00 in lieu of salary from March 14 through May 9, 2012. Her salary was \$14.63 per hour. She was paid her regular salary through March 13, 2012. The employer did designate the period of time to which the severance pay was to be applied as March 14, 2012 through May 9, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

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

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 paragraph "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. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

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's severance pay of \$4,800.00 was arrived at by adding \$117.07 per day and assigning three days in the amount of \$351.21 the week ending March 17, 2012; five days per week in the amount of \$585.35 per week for the seven weeks ending May 5, 2012; and three days in the amount of \$351.21 the week ending May 12, 2012, for a total of \$4,799.87. The claimant's weekly benefit amount (WBA) of \$356.00 less a dollar for dollar deduction of her severance pay leaves the claimant with a severance pay deduction of \$4,800.00.

**DECISION:**

The August 7, 2012, reference 03, decision is affirmed. The severance pay was deducted for the correct period of time. The claimant was paid severance pay from March 14 through May 9, 2012.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs