

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SCOTT E THOMAS**

Claimant

**APPEAL 24A-UI-10062-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PALFINGER US HOLDINGS INC**

Employer

**OC: 05/26/24**

**Claimant: Appellant (1)**

Iowa Code § 96.5(7) – Receipt of Vacation Pay/PTO

**STATEMENT OF THE CASE:**

On December 2, 2024, the claimant/appellant filed an appeal from the November 25, 2024, (reference 02) unemployment insurance decision that allowed the claimant to receive a reduced benefit amount for the week ending November 9, 2024 due to the claimant receiving vacation pay. The original decision did not have the correct last employer on the decision. The correct employer has been added to the appeal since they are the employer reporting the vacation pay. The parties were properly notified about the hearing. A telephone hearing was held on January 7, 2025. The claimant participated. The employer did not call in to participate. Administrative notice was taken of claimant's unemployment insurance benefits records including DBRO. Claimant's exhibit A and B were admitted into the record.

**ISSUES:**

- I. Did the claimant receive vacation pay or PTO at separation?
- II. Is that amount deductible from benefits, and if so, for what period?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant worked for the employer in paint preparation. Each week the claimant worked Monday through Friday. The last day the claimant performed work was Friday, November 1, 2024. The claimant worked a full eight hour shift.

The claimant received pay for accumulated but unused vacation pay/paid time off (PTO) in the amount of \$47.18, equivalent to 1.58 hours, based upon a rate of pay at \$29.86 per hour. (Exhibit A). The employer designated the period of time to which the vacation pay/PTO was to be applied as Monday, October 21, 2024 through Sunday, November 3, 2024. (Exhibit B). Claimant's weekly benefit amount (WBA) is \$585.00. (DBRO). The claimant received a reduced benefit amount of \$538.00 for one week during the week ending November 9, 2024. (DBRO).

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the vacation pay/PTO was deducted for the correct period.

Iowa Code section 96.5(7) provides:

An individual shall be disqualified for benefits:

*7. Vacation pay.*

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.19, subsection 41, and shall be applied as provided in paragraph "c" hereof.

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation, and within ten calendar days after notification of the filing of the individual's claim, designates by notice in writing to the department the period to which the payment shall be allocated; provided, that if such designated period is extended by the employer, the individual may again similarly designate an extended period, by giving notice in writing to the department not later than the beginning of the extension of the period, with the same effect as if the period of extension were included in the original designation. The amount of a payment or obligation to make payment, is deemed "wages" as defined in section 96.19, subsection 41, and shall be applied as provided in paragraph "c" of this subsection 7.

c. Of the wages described in paragraph "a" (whether or not the employer has designated the period therein described), or of the wages described in paragraph "b", if the period therein described has been designated by the employer as therein provided, a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums, so designated or attributed to such normal workdays, equal or exceed the individual's weekly benefit amount. If the amount so designated or attributed as wages is less than the weekly benefit amount of such individual, the individual's benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs "a", "b", and "c", if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer and if the employer does not designate the vacation period pursuant to paragraph "b", then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in

section 96.19, subsection 41, for any period in excess of one week and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter. However, if the employer designates more than one week as the vacation period pursuant to paragraph "b", the vacation pay, vacation pay allowance, or pay in lieu of vacation shall be considered wages and shall be deducted from benefits.

e. If an employer pays or is obligated to pay a bonus to an individual at the same time the employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

Iowa Admin. Code r. 871-24.16(1) and (3) provide:

(1) If the employer properly notifies the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, **a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted.** For the purposes of this rule, rule 871-24.13(96), and rule 871-24.17(96), the term "vacation pay" shall include paid time off and annual leave payments. (Emphasis added).

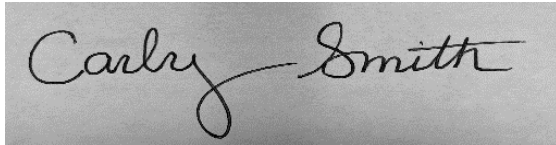
(3) If the employer fails to properly notify the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, the entire amount of the vacation pay shall be applied to the one-week period starting on the first workday following the last day worked as defined in subrule 24.16(4). However, if the individual does not claim benefits after layoff for the normal employer workweek immediately following the last day worked, then the entire amount of the vacation pay shall not be deducted from any week of benefits.

The general policy underlying the deductibility of vacation pay/PTO from benefit eligibility is "that even though one is unemployed during certain weeks, he or she is not entitled to unemployment benefits for weeks if receiving or having received vacation pay therefor." *Lefebure Corp. v. Iowa Dep't of Job Serv.*, 341 N.W.2d 768, 771 (Iowa 1983); see also, 14 A.L.R.4th 1175 §2(a) (1982). Thus, "vacation pay" is deductible because it is considered a form of "wage," which the statute further defines as any "remuneration for personal services . . ." Iowa Code § 96.19(41). The purpose behind all the deductible payment provisions of the unemployment law is to prevent claimants from receiving benefits for any week or portion thereof in which they are also receiving a wage substitute payment from their employer. The law allows employers to designate the period of time to which a lump sum payment is allocated so that claimants have to exhaust their wage substitute payments before drawing benefits. If vacation is prepaid then "the amount of prepaid vacation pay in each instance shall be attributed to the first and each subsequent workday (Monday through Friday) during this period until the entire amount of prepaid vacation pay has been applied in reduction of benefits." *Lefebure Corp. v. Iowa Dep't of Job Serv.*, 341 N.W.2d 768, 772 (Iowa 1983).

In this case the claimant's normal work days occurred Monday through Friday. The claimant worked a full day on Friday, November 1, 2024 and then was laid off by the employer the same day. The claimant is entitled to receive 1.58 hours of vacation pay after the start of his layoff beginning the next workday on Monday, November 4, 2024. As a result, the calculation was correct, the vacation pay was correctly deducted from the first week of benefits following the separation.

**DECISION:**

The November 25, 2024 (reference 02) unemployment insurance decision is AFFIRMED. The vacation pay/PTO was deducted for the correct period ending November 9, 2024.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive style with a large, looping "C" and a long horizontal stroke extending from the "y".

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Carly Smith  
Administrative Law Judge

January 7, 2025  
Decision Dated and Mailed

cs/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

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.

**AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.