

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARL STRONG
Claimant

APPEAL NO. 07A-UI-06063-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

X-L SPECIALIZED TRAILERS INC
Employer

**OC: 05/20/07 R: 04
Claimant: Appellant (1)**

Section 96.5-5 – Receipt of Severance

STATEMENT OF THE CASE:

Carl Strong (claimant) appealed an unemployment insurance decision dated June 8, 2007, reference 02, which held that he was not eligible for unemployment insurance benefits for the 12-week period ending August 11, 2007 due to the receipt of severance pay from X-L Specialized Trailers, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 3, 2007. The claimant participated in the hearing. The employer submitted a written letter in lieu of participation. Employer's Exhibit One and Department Exhibit One were admitted into evidence. Based on the evidence, the arguments of the party, 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 properly deducted.

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 separated from employment on May 9, 2007. After his separation from employment, he received severance pay in the amount of \$13,846.20. The employer signed an agreement in which the claimant would not be disqualified from receiving unemployment insurance benefits due to the receipt of his severance pay but the employer's contract does not control Iowa Unemployment Insurance law.

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 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 received \$13,846.20.00 in severance pay for the 12-week period ending August 11, 2007. The claimant is not eligible to receive unemployment insurance benefits during that time.

DECISION:

The unemployment insurance decision dated June 8, 2007, reference 02, is affirmed. Severance pay was deducted correctly. The claimant is not eligible to receive unemployment insurance benefits for the 12-week period ending August 11, 2007.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css