

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANDREW J PUGH
Claimant

UPPER IOWA UNIVERSITY
Employer

APPEAL 15A-UI-10358-DGT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/26/15
Claimant: Appellant (1)**

Iowa Code § 96.5(5) – Severance Pay

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 10, 2015, (reference 06) decision that deducted severance pay from benefits. After due notice was issued, a telephone conference hearing was held on September 30, 2015. Claimant participated. Employer participated through Emily Knapp, Human Resources Generalist.

ISSUE:

Did the claimant receive severance pay and if so, was it correctly deducted from benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated on July 28, 2015, and did receive severance pay in the amount of \$865.30, equivalent to 80 hours, based upon a rate of pay at \$10.80 per hour.

Claimant was separated on and received “severance” pay and but was not required to sign an agreement to receive the payment. Severance pay is generally defined as money paid to an employee who is dismissed because of a lack of work or other reasons beyond the employee’s control but does not require anything further in exchange.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did receive severance pay, which was correctly deducted from benefits.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.13(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.

Iowa Admin. Code r. 871-24.13(4)b provides:

(4) Nondeductible payments from benefits. The following payments are not considered as wages and are not deductible from benefits:

- b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

Employer did provide the amount paid, and when those amounts should be applied. Therefore, the entire amount of severance pay was correctly deducted for the two-week period ending August 11, 2015.

DECISION:

The September 10, 2015, (reference 06) decision is affirmed. The severance pay was correctly deducted.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/pjs