

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LYNN L DONER
Claimant

APPEAL NO. 09A-UI-11316-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALEGENT HEALTH
Employer

**Original Claim: 03/01/09
Claimant: Appellant (4)**

Section 96.5.7 – Vacation Pay

STATEMENT OF THE CASE:

Lynn L. Doner (claimant) appealed a representative's July 28, 2009 decision (reference 03) that concluded she was not eligible to receive benefits for the weeks ending March 7 through April 4, 2009, because she received vacation pay from Alegant Health (employer) that should be attributed to these weeks. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2009. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

What weeks should the vacation pay the claimant received be attributed to?

FINDINGS OF FACT:

The claimant's last day of work for the employer was February 10, 2009. When the claimant worked for the employer, she earned \$15.76 an hour and worked 40 hours a week. The employer paid the claimant 295 hours of vacation pay for a total of \$4,652.35. The employer paid her for 320 hours of severance pay for a total of \$5,043.00.

The claimant did not establish a claim for benefits until the week of March 1, 2009.

REASONING AND CONCLUSIONS OF LAW:

Vacation pay is deemed wages for unemployment insurance purposes and must be deducted if attributed to a week in which a claimant files a claim for benefits. Iowa Code § 96.5-7. If an employer does not designate a specific time to attribute to the vacation pay, the entire amount of the vacation pay shall be applied to the one-week period starting on the first workday following the last day of work. If the claimant does not claim benefits during the normal employer workweek immediately following the last day worked, the entire amount of the vacation pay shall not be deducted from any other week of benefits. 871 IAC 24.16(3).

The employer did not designate the period of time to attribute the vacation pay. Since the claimant did not claim any benefits until the week of April 5, 2009, the law requires the vacation pay to be attributed to just the week ending February 21, 2009.

DECISION:

The representative's July 28, 2009 decision (reference 03) is modified in the claimant's favor. The claimant received 295 hours of vacation pay, but the employer did not designate the time to attribute the vacation pay. Since the claimant did not file a claim for benefits until the week ending April 11, 2009, the entire vacation payment must be attributed to the week ending February 21, 2009.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw