

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEBRA A VOGL Claimant DYNAMITE MARKETING INC PHARMTECH Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 16A-UI-04822-S1-T</div> <div>ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 03/20/16 Claimant: Appellant (1)</div>
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Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Debra Vogl (claimant) appealed a representative's April 18, 2016 (reference 03) decision that concluded she was not eligible to receive unemployment insurance benefits for the two-week period ending April 9, 2016, due to the receipt of severance pay from Dynamite Marketing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 10, 2016. The claimant participated personally. The employer participated by Amanda Cauffman, Accounting Manager. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant received severance pay and, therefore, is not eligible to receive unemployment insurance benefits for the two-week period ending April 9, 2016.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated on March 4, 2016 and received vacation pay in the amount of \$1,751.48. The employer did not designate the period of time to which the vacation pay was to be applied. When the claimant's employment ended the employer gave the claimant \$1,320.00, or two-weeks of severance pay. The claimant filed her claim for unemployment insurance benefits with an effective date of March 20, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant received severance pay and is not eligible to receive unemployment insurance benefits for the two-week period ending April 9, 2016.

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.

The claimant received severance pay for the two-week period ending April 9, 2016. Under the provisions of the above Code Section the claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending April 9, 2016, due to the receipt of the severance pay.

DECISION:

The April 18, 2016 (reference 03) decision is affirmed. The claimant is disqualified from receive unemployment insurance benefits for the two-week period ending April 9, 2016, due to the receipt of severance pay.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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