

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DOMINIQUE M JONES**  
Claimant

**RAINING ROSE INC**  
Employer

**APPEAL 17A-UI-03646-NM-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/26/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(5) – Severance Pay

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 23, 2017, (reference 05) unemployment insurance decision that found him not eligible to receive unemployment insurance benefits from the three weeks ending March 18, 2017. The parties were properly notified of the hearing. A telephone hearing was held on April 26, 2017. The claimant participated and testified. The employer participated through Director of Human Resources Jennifer Mooreland.

**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: Claimant was employed full time as a machine operator from June 16, 2014, until this employment ended on February 22, 2017, when he was laid off due to lack of work. The claimant did receive severance pay in the amount of \$2,382.00, equivalent to his wages for two and a half pay periods, based upon a rate of pay at \$14.26 per hour. There was no requirement that he sign an agreement waiving certain rights to receive the pay.

**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.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) 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.

b. 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", subparagraph (1), (2), or (3), 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.

The Unemployment Insurance Appeals Bureau of Iowa Workforce Development has historically interpreted "severance pay" to include a benefit used to attract employees or "conscience money" to help a former employee survive a lay off. It has traditionally excluded from the definition of "severance pay" circumstances involving quid pro quo settlements designed to head off further legal action by an employee that might arise from the circumstances surrounding the separation from the employment. Under the Agency's historic interpretation of

“severance pay,” the monetary amount issued to the claimant would fall within the definition of wages in lieu of notice, separation allowance, severance pay or dismissal pay, and is deductible from his Unemployment Insurance Benefits under Iowa Code section 96.5(5). The severance pay calculation was accurate and the amount was correctly deducted.

**DECISION:**

The March 23, 2017, (reference 05) unemployment insurance decision is affirmed. The severance pay was correctly deducted.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

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