

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ROBERT J QUINN  
807 – 38<sup>TH</sup>  
WEST DES MOINES IA 50265

DATA TRANSMISSION NETWORK  
CORPORATION  
9110 W DODGE RD #200  
OMAHA NE 68114-3320

Appeal Number: 04A-UI-00581-AT  
OC: 12/14/03 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Robert J. Quinn filed a timely appeal from an unemployment insurance decision dated January 14, 2004, reference 01, was denied benefits to him for the two weeks ending January 3, 2004 upon the finding that he was entitled to receive vacation pay for the weeks in question. After due notice was issued, a telephone hearing was held on February 4, 2004 with Mr. Quinn participating. Human Resources Director Sheri Viner participated for the employer, Data Transmission Network Corporation. This matter is considered on a consolidated record with 04A-UI-00582-AT and 04A-UI-00583-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Robert J. Quinn's employment with Data Transmission Network Corporation ended on July 1, 2003. In connection with his separation from employment, he received \$3,826.86 for 84 hours of accrued unused vacation pay. He also received severance pay in the gross amount of \$7,289.25, covering four weeks of his salary.

In addition to these amounts, he also received \$40,090.82 as consideration for his promise not to file any action against his employer in connection with his separation. If he had not signed the agreement, he would not have received the \$40,090.82 payment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Quinn should be denied unemployment insurance benefits for the two weeks ending January 3, 2004 because of his vacation pay. For the reasons which follow, the administrative law judge concludes that benefits should be paid for the two weeks in question. Iowa Code Section 96.5-7 provides that the commencement of an individual's unemployment insurance benefits may be delayed if the individual has received vacation pay in connection with his separation from employment. The statute provides that vacation pay is deducted dollar for dollar from an individual's unemployment insurance benefits for the week or weeks to which the vacation pay is to be attributed. The evidence in this record establishes that Mr. Quinn's last day of employment was July 1, 2003. Eighty-four hours of vacation pay starting on July 4, 2003 would last until approximately July 17, 2003. Mr. Quinn did not file his unemployment insurance claim until the week of December 14, 2003, well after the weeks covered by his vacation pay.

DECISION:

The unemployment insurance decision dated January 14, 2004, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the two weeks ending January 3, 2004, provided he is otherwise eligible.

kjf/b