

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARMANDO SARTIAGUIN
Claimant

APPEAL NO. 14A-UI-02765-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELLER CONSTRUCTION CO INC
Employer

OC: 01/05/14
Claimant: Appellant (2)

Section 96.5(5)b – Deductible Workers’ Compensation

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 6, 2014, reference 02, that concluded he received deductible worker’s compensation. A telephone hearing was held on April 3, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Shelly Eller participated in the hearing on behalf of the employer. The record was left open for the employer to provide information about the type of workers’ compensation benefits the claimant received for the week ending January 11, 2014. The information was faxed but not received by Appeals Bureau. Official notice is taken of the Agency’s records regarding the claimant’s unemployment insurance claim, which show during a fact-finding interview held in March 2014, the claims deputy contacted the employer’s insurance company. The representative, Tammy Carlson reported that the claimant had received permanent partial benefits from March 11, 2013, through January 13, 2014, and afterward received a lump sum of the remaining permanent partial benefits. A follow-up was done with Sheri Eller on April 17. She was read this information and agreed that it could be entered into evidence. The claimant was called but was not available. If the claimant objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Did the claimant receive deductible workers’ compensation?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 5, 2014. The claimant had received permanent partial benefits from March 11, 2013, through January 13, 2014, and afterward received a lump sum of the remaining permanent partial benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is ineligible to receive unemployment insurance benefits effective January 5, 2014, because he is entitled to workers' compensation for temporary disability.

Under Iowa Code § 96.5-5-b, an individual shall be disqualified for benefits for any week with respect to which the individual is receiving or has received payment in the form of compensation for temporary disability under the unemployment insurance law of any state or under a similar law of the United States.

The claimant was not receiving compensation for temporary disability, which is a wage replacement benefit. He received permanent partial benefits, which is compensation for his permanent injury and is not deductible.

DECISION:

The unemployment insurance decision dated March 6, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits effective January 5, 2014, and afterward.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css