

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**PATRICIA LEWIS**  
Claimant

**APPEAL NO. 06A-UI-09026-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTRONIC DATA SYSTEMS  
CORPORATION**  
Employer

**OC: 07-16-06 R: 02  
Claimant: Appellant (1)**

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Section 96 5-5– Severance Pay

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 6, 2006, reference 01, decision that deducted severance pay from benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 25, 2006. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the claimant's severance pay was correctly deducted.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's weekly wages were \$531.75 or \$106.35 per day. The employer designated 16 days of severance pay for a total of \$1,696.00 from July 21, 2006, through the week ending August 12, 2006. The employer included \$423.00 of that total for health benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the severance pay was not correctly deducted.

Iowa Code section 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 paragraphs "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.

Because the employer did designate a time period to which the severance pay is to apply, \$1,273.00 was correctly deducted. The \$423.00 in health insurance benefits is not considered wages or severance pay and does not apply to the total of severance pay.

**DECISION:**

The September 6, 2006, reference 01, decision is affirmed. Severance pay in the amount of \$1,273.00 was paid to the claimant and correctly deducted as the severance pay received. The \$423.00 in health insurance benefits is not severance pay and does not apply.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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