

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAY A LINDENMAYER
Claimant

MONSANTO IOWA PRODUCTION CO LLC
Employer

APPEAL 19A-UI-00811-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/23/18
Claimant: Appellant (4)

Iowa Code § 96.5(5) – Receipt of Wages Earned and Holiday Pay/PTO

STATEMENT OF THE CASE:

Jay A. Lindenmayer (claimant) filed a timely appeal from the January 25, 2019, reference 01, unemployment insurance decision that determined he was entitled to a reduced unemployment insurance benefit amount for the week ending December 29, 2018 due to underreported holiday pay and earned wages. After due notice was issued, a telephone conference hearing was held on February 13, 2019 and consolidated with the hearings for appeals 19A-UI-00812-SC-T and 19A-UI-00813-SC-T. The claimant participated personally. Monsanto Iowa Production Co., LLC (employer) did not respond to the hearing notice and did not participate.

ISSUES:

Did the claimant receive holiday pay and earn wages during the week ending December 29, 2018?

Is that amount deductible from benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed his claim for benefits effective December 23, 2018 following a temporary layoff from the employer and his weekly benefit amount (WBA) is \$467.00. The claimant earns \$17.00 an hour. He received eight hours of holiday pay but did not perform any work for the employer during the week ending December 29 earning a total of \$136.00 in wages. The claimant filed his weekly continued claim for benefits and reported \$100.00 in wages. He received a total of \$467.00 in unemployment insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is entitled to a reduced benefit amount.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contributions to the plan.

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(2)a provides:

Deductible and nondeductible payments.

(2) Deductible payments from benefits. The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 871-24.18(96):

a. Holiday pay. However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitations. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the nearest dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code section 96.3, 96.4 and 96.19(38).

The 2018 Unemployment Insurance Claimant Handbook explains the calculation outlined in Iowa Admin. Code r. 871-24.18 stating, in relevant part, "An individual may earn up to 25 percent of their WBA before the benefit payment is reduced but there is still a requirement to report all earnings even if under 25 percent. Earnings higher than 25 percent will reduce the benefit payment." It goes on to state this formula will apply to wages and holiday pay.

The claimant's WBA is \$467.00. Using the formula outlined above, he can earn up to \$117.00, or 25 percent of the WBA, in any given week before his weekly benefit amount is reduced. The claimant received holiday pay in the amount of \$136.00 for the week ending December 29, which is \$19.00 over the 25 percent threshold. The claimant is entitled to a reduced benefit amount of \$448.00 for the week ending December 29 as the \$19.00 is subtracted from his WBA.

DECISION:

The January 25, 2019, reference 01, unemployment insurance decision is modified in favor of the appellant. The claimant received \$136.00 in holiday pay and is entitled to a reduced benefit amount of \$448.00 for the week ending December 29, 2018.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn