

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY D LANDGREBE

Claimant

APPEAL NO. 10A-UI-13207-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEWTON COMMUNITY SCHOOL DIST

Employer

OC: 06/27/10

Claimant: Appellant (1)

Section 96.5(7) – Vacation Pay

STATEMENT OF THE CASE:

Jerry Landgrebe filed an appeal from a representative's decision dated September 15, 2010, reference 01, which held he was not eligible to receive job insurance benefits for the one-week period ending July 7, 2010 because of his receipt of vacation pay from Newton Community School District. After due notice was issued, a hearing was held by telephone on October 28, 2010. Mr. Landgrebe participated personally. The employer participated by James Sogard, Director of Human Resources.

ISSUE:

At issue in this matter is whether Mr. Landgrebe's vacation pay was deducted for the correct period.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Landgrebe's last day of work for Newton Community School District was June 30, 2010. In conjunction with his separation, he was paid his accumulated vacation pay. The pay was in the gross amount of \$2,967.51 and represented 21 days of pay. He received the pay on June 30 and reported it to Workforce Development when he called in his claim for the week ending July 3, 2010. The employer has not notified Workforce Development that the vacation pay received by Mr. Landgrebe was to be attributed to any specific period of time. He did not receive any other payments from the school district in conjunction with his separation.

REASONING AND CONCLUSIONS OF LAW:

Vacation pay is deducted from job insurance benefits on a dollar-for-dollar basis. See Iowa Code section 96.5(7)c. If an employer does not designate a specific period to which the vacation pay is to be attributed, it is deducted from job insurance benefits for only one workweek, beginning with the first workday following the last day worked. 871 IAC 24.16(3). Although the school district identified the period during which Mr. Landgrebe earned his vacation pay, it did not designate a specific period for which it was to be deducted.

Vacation pay is a benefit that, but for a separation from employment, would entitle the employee to take time off from work with pay. The law provides that the pay should be deducted from job insurance benefits if the individual is paid for the time before he has an opportunity to take the time off from work. Therefore, regardless of when the employer makes the payment, the vacation pay itself is deductible from job insurance benefits. In some cases, the deduction may carry into weeks after the payment is actually received. Mr. Landgrebe properly reported his receipt of vacation pay from the school district.

Mr. Landgrebe worked a Monday through Friday schedule for eight hours each day. His last day of work was Wednesday, June 30. Because the employer did not designate a vacation period, the entire amount of his vacation pay would be deducted for the first five workdays following June 30. Two days were used for July 1 and 2. The remaining three days would cover July 5, 6, and 7. For the above reasons, the decision holding Mr. Landgrebe ineligible for benefits through July 7, 2010 was correct and shall be affirmed. The three days of vacation pay for that week exceeded his weekly job insurance benefit amount of \$402.00 and, therefore, he would not be entitled to benefits for the week ending July 10, 2010.

DECISION:

The representative's decision dated September 15, 2010, reference 01, is hereby affirmed. Mr. Landgrebe is ineligible to receive job insurance benefits for the week ending July 10, 2010 because of his receipt of vacation pay from Newton Community School District.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css