

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JONATHAN W SULLIVAN**  
Claimant

**APPEAL NO: 14A-UI-08838-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LONG LINES LLC**  
Employer

**OC: 05/18/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(7) – Vacation Pay

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 8, 2014 determination (reference 11) that held him ineligible to receive benefits for the week ending May 24, 2014, because he received vacation pay that had to be attributed to this week. The Benefits Bureau inadvertently sent reference 05 to an employer the claimant had not worked for. This error was noticed before a scheduled hearing on September 12. The Benefits Bureau then issued a determination on September 8 (reference 11) concerning vacation pay but this determination was sent to the employer, the correct employer.

The claimant participated at a September 23 hearing. Linda Fischer appeared on the employer's behalf. Based on the administrative record, evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits for the week ending May 24, 2014 because he received vacation pay that must be attributed to this week and is more than his maximum weekly benefit amount.

**ISSUE:**

Did the claimant receive vacation pay that should be attributed to the week ending May 24, 2014?

**FINDINGS OF FACT:**

The claimant's last day of work for the employer was May 16, 2014. The claimant was working full time and most recently earned an hourly rate of \$10.06 an hour when he was laid off from work. During his employment, the claimant had at one time earned an hourly rate plus a commission, but commissions had been eliminated before May 16, 2014.

The employer paid the claimant \$517.40 in vacation pay for 51.44 hours of accrued vacation hours.

The claimant established a claim for benefits during the week of May 18, 2014. He filed a claim for the week ending May 24, 2014. The claimant's June 17, 2014 corrected monetary

determination informed him that his maximum weekly benefit amount is \$270 a week. This monetary determination included the claimant's Nebraska wages.

**REASONING AND CONCLUSIONS OF LAW:**

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code § 96.5(7), 871 IAC 24.16.

Since the employer paid the claimant vacation pay for 51.44 hours, 40 hours of vacation pay must be attributed to the week ending May 24. This means \$402.40 is attributed to the week ending May 24 and \$115 of vacation pay is attributed to the week ending May 31, 2014. The claimant is not eligible to receive benefits for the week ending May 24 because his vacation payment exceeds his weekly benefit amount of \$270.

Note: The claimant gave the administrative law judge permission to find out if his wages from Nebraska had been included in his monetary determination. The administrative law judge learned the claimant's Nebraska wages were included on a corrected June 17, 2014 monetary determination that was mailed to the claimant. The June 17 monetary determination included wages the claimant earned in Nebraska from April 1, 2013 through December 31, 2013. As a result of using wages from Nebraska the claimant's maximum weekly benefit amount is \$270.

**DECISION:**

The representative's September 8, 2014 determination (reference 11) is affirmed. The claimant received vacation pay which must be attributed to the weeks ending May 24 and 31, 2014. Since 40 hours of vacation pay, \$402.40, exceeds the claimant's maximum weekly benefit amount, the claimant is not eligible to receive benefits for the week ending May 24. The remaining vacation payment of \$115 must be attributed to the week ending May 31, 2014.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css