

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

QUYEN C DOAN
Claimant

APPEAL NO. 10A-UI-06360-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY
Employer

**Original Claim: 01/03/10
Claimant: Appellant (2)**

Section 96.5-7 – Vacation Pay
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Quyen C. Doan filed an appeal from an unemployment insurance decision dated March 23, 2010, reference 01, that denied benefits to him for the two weeks ending January 16, 2010, upon a finding that he was entitled to receive vacation pay attributed to the weeks in question. After due notice was issued, a telephone hearing was held June 10, 2010, with Mr. Doan participating. Teresa Feldmann participated for the employer, IAC Iowa City. Employer Exhibit 1 and Exhibit D-1 were admitted into evidence. Lam Nguyen served as interpreter.

ISSUES:

Has the claimant filed a timely appeal?

Did the claimant receive vacation pay attributable to the two weeks ending January 16, 2010?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Quyen C. Doan was on temporary layoff in the first part of January 2010. He received unemployment insurance benefits for the week ending January 9, 2010. On or about January 15, 2010, he also received a payout from the company for unused vacation hours from 2009. The company did not intend for the vacation payout to be used to offset unemployment insurance benefits.

Mr. Doan does not understand written English well. When he received the decision denying benefits to him, he did not realize that he could file an appeal. He did so once he received information from the Agency indicating that he could.

REASONING AND CONCLUSIONS OF LAW:

Since the claimant has limited ability in reading English, the administrative law judge concludes that his appeal should be accepted as timely because he filed it within a reasonable amount of time after learning that he could file the appeal. See 871 IAC 24.35.

Vacation pay is deductible from unemployment insurance benefits for the week or weeks to which it is attributed. See Iowa Code section 96.5-7. The testimony of the employer's witness establishes that the company did not intend that the 2009 vacation payout be used to offset 2010 unemployment insurance benefits. From this, the administrative law judge concludes that the claimant is entitled to receive unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated March 23, 2010, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the two weeks ending January 16, 2010, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw