

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUNE L DOWNS
Claimant

APPEAL NO. 07A-UI-05235-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREAT WESTERN BANK
Employer

**OC: 04/19/07 R: 01
Claimant: Appellant (1)**

Section 96.5-7 - Vacation Pay

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 22, 2007, reference 02, that concluded she was ineligible for benefits due to the receipt of vacation pay. A telephone hearing was held on June 1, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Colleen Stratton participated in the hearing on behalf of the employer with a witness, Kris Hedinger.

ISSUE:

Did the claimant receive deductible vacation pay and was it deducted correctly?

FINDINGS OF FACT:

The claimant worked for the employer through January 31, 2007. The claimant's rate of pay was \$8.55 per hour. After her separation from employment the claimant continued to receive severance pay through April 30, 2007. On February 9, 2007, the claimant was paid for her unused vacation totaling \$889.20 for 104 hours or 13 days of vacation.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 29, 2007. Her weekly benefit amount was determined to be \$198.00. The employer responded to the Notice of Claim within ten calendar days of the date that it was mailed to the employer. In its response, the employer designated the period from May 1 through 17, 2007, as the period to which the vacation pay was to apply.

REASONING AND CONCLUSIONS OF LAW:

Vacation pay is considered as a wage substitute and 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 section 96.5-7.

In this case, the claimant received vacation pay and the employer timely designated the period to which the pay was attributable as May 1 to 17, 2007. There is nothing unreasonable about this designation since the employer paid the claimant severance pay after her last day of work through April 30, and the claimant is, therefore, ineligible for unemployment insurance benefits through the week ending May 19, 2007, since the vacation pay for each week would exceed her weekly benefit amount.

DECISION:

The unemployment insurance decision dated May 22, 2007, reference 02, is affirmed. The claimant is ineligible to receive unemployment insurance benefits for the period from April 29 through May 19, 2007, due to the receipt of vacation pay.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css