

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CODY P GRIMES**

Claimant

**APPEAL NO: 14A-UI-07790-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF DES MOINES PAYROLL DEPT**

Employer

**OC: 06/08/14**

**Claimant: Respondent (4/R)**

Section 96.5-7 – Vacation and Holiday Pay

**STATEMENT OF THE CASE:**

City of Des Moines Payroll Department (employer) appealed a representative's July 14, 2014 decision (reference 04) that concluded the claimant was only ineligible for benefits for a two-week period ending June 21, 2014 due to receipt of vacation pay. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 14, 2014. The claimant participated in the hearing. Heather Brady appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant's vacation and holiday pay properly allocated and deducted?

**FINDINGS OF FACT:**

The claimant worked full time as a senior police officer. His last regular paid day of work was June 3, 2014. At that time he was being paid \$34.07 per hour, and was being paid on the basis of working Monday through Friday.

His last regular paycheck was issued to him on June 13, 2014. That paycheck, covering the pay period from May 26 through June 8, included 48 hours of regular pay for the work days of May 27, May 28, May 29, May 30, June 2, and June 3, and eight hours of holiday pay for May 26.

On June 13 the employer also cut the claimant a payout check to include his accumulated vacation pay, unpaid holiday pay, and comp time. The employer did not send the check directly to the claimant; he received the check on July 17, 2014. The payout check included pay for 102.69 hours of accumulated vacation pay and 95 hours of unpaid holiday pay. The employer asserted that these 197.69 hours, equating to about 24.7 days, would be applied as three days into the week ending June 7, five days into the week ending June 14, five days into the week ending June 21, five days into the week ending June 28, five days into the week ending July 5, and 1.7 days carrying over into the week ending July 12. The claimant only claimed benefits

through the week ending June 28. He has already been found to be overpaid benefits due to the receipt of vacation pay for the weeks of June 14 and June 21, so the only week remaining at issue is the week ending June 28.

**REASONING AND CONCLUSIONS OF LAW:**

If vacation pay was or will be received by the claimant and was properly allocated to a period of unemployment, it must be deducted from the claimant's unemployment insurance benefit eligibility; the vacation pay paid or owed "shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted." Iowa Code § 96.5-7. The same provisions apply to the receipt of holiday pay. Rule 871 IAC 24.13(2)a.

The claimant did receive vacation and holiday pay attributable to full benefit weeks at least through July 5, 2014. The payments were in excess of his unemployment benefit eligibility, so he is not eligible to receive unemployment insurance benefits for those weeks.

As the only one of these weeks remains as to a week for which the claimant received benefits, the week ending June 28, benefits would be overpaid for that week. The matter is remanded to the Benefits Bureau to address the overpayment for that week.

**DECISION:**

The representative's July 14, 2014 decision (reference 04) is modified in favor of the employer. The vacation pay and holiday pay was not correctly deducted. Vacation and holiday pay applied to the full benefits weeks from June 8 through July 5, 2014. The matter is **REMANDED** to the Benefits Bureau to address the issue of the benefits that were overpaid for the week ending June 28, 2014.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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