

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CONNIE R NOLEN**  
Claimant

**FIRST ADMINISTRATORS INC**  
Employer

**APPEAL NO. 14A-UI-09734-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/13/14**  
**Claimant: Appellant (2)**

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Section 96.5-7 – Vacation Pay

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 15, 2014, reference 03, that concluded she was ineligible for benefits due to the receipt of vacation pay. A telephone hearing was held on October 9, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant worked full time for the employer from July 2012 through April 1, 2014 when the location where the claimant worked closed. The claimant's rate of pay was \$12.10. After her separation from employment, the claimant received a payment for her unused time off totaling \$1518.56, representing 125.6 hours of paid time off.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 13, 2014. 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 reported the claimant had received 9.5 hours of wages (\$114.95) for the week of March 30 and 125.6 hours of vacation pay (\$1518.56). The employer did not designate the dates to which the vacation pay applied.

The claimant attended a meeting in March 2014 facilitated by Iowa Workforce Development that discussed applying for unemployment insurance benefits. During the meeting attended by human resources representatives from Wellmark, the employer's parent company, it was discussed that employers sometimes allow claimant to apply vacation pay to the first five business days after the last day of work. The human resources representatives were asked if the employer would have any problem if a claimant reported vacation pay to the first five days after the last day worked. The representatives agreed that employees could apply the vacation pay for the first five days after the last day worked.

As a result, the claimant did not file for unemployment insurance benefits until April 13, 2014, in reasonable reliance on the employer's representatives assurances that the vacation pay could be applied to the period from April 1 through April 8.

**REASONING AND CONCLUSIONS OF LAW:**

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 an employer does not designate the dates to which vacation pay applies by the ten-day deadline, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. But if the individual does not claim benefits after layoff for the normal employer workweek immediately following the last day worked, then the entire amount of the vacation pay shall not be deducted from any week of benefits. 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; Iowa Admin. Code r. 871-24.16(3).

In this case, the claimant received vacation pay of 125.6 hours of vacation pay (\$1518.56). The employer reported the amount of vacation within ten days but did not state the actual dates to which the vacation pay should be applied. In fact, representatives assured the claimant that the vacation pay could be applied to the first five days after the last day of work. The claimant reasonably relied on this and the claimant did not apply for benefits until the week after the vacation pay would be applied under Iowa Admin. Code r. 871-24.16(3). She was therefore eligible for benefits effective April 13, 2014.

**DECISION:**

The unemployment insurance decision dated September 15, 2014, reference 03, is reversed. The claimant is eligible to receive unemployment insurance benefits for the weeks ending April 19 and 26, 2014.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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