

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGG G HENKEL

Claimant

APPEAL NO. 07A-UI-10273-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODRICH CORPORATION

Employer

**OC: 10/29/06 R: 12
Claimant: Appellant (1)**

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Gregg G. Henkel (claimant) appealed a representative's November 5, 2007 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits for the period ending October 13, 2007 due to the receipt of severance pay. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 26, 2007. This appeal was consolidated for hearing with two related appeals, 07A-UI-10274-DT and 07A-UI-10275-DT. The claimant participated in the hearing. Lee Murray appeared on the employer's behalf. During the hearing, Exhibit A-1 was entered into evidence. 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 which affirms the representative's decision in this case only and denies benefits for the period ending October 13, 2007.

ISSUE:

Did the claimant receive severance pay and was it properly allocated and deducted?

FINDINGS OF FACT:

The claimant started working for the employer on March 19, 2007. He worked full time as a machine engineer on a salary basis. His biweekly annualized pay was \$2,769.23, paid current on every other Friday. His last day of work was October 1, 2007. He was sent home after only a few hours that day, but was paid separation pay through the next payday, Friday, October 12, 2007, in the amount of \$2,769.23.

The claimant had established an unemployment insurance benefit year effective October 29, 2006. After his separation October 1, 2007, he filed an additional claim effective October 7, 2007. He made a weekly claim for the week ending October 13, 2007 for which he reported severance pay in excess of his eligibility and therefore he received no benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

If severance pay was 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.

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

c. A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", "b", or "c", were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

The claimant did receive severance pay for the benefit period ending October 13, 2007; he did properly report that pay, and therefore had no remaining eligibility for that period.

DECISION:

The representative's November 5, 2007 decision (reference 04) is affirmed. The claimant was not eligible for unemployment insurance benefits for the week ending October 13, 2007 due to the receipt of severance pay.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css