

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DONNA K LEONARD
704 SYCMORE ST
MONTICELLO IA 52310

OPERATION NEW VIEW
C/O FISCAL OFFICER
1473 CENTRAL AVE
DUBUQUE IA 52201 4853

Appeal Number: 05A-UI-07249-DWT
OC: 06/12/05 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Donna K. Leonard (claimant) appealed a representative's July 6, 2005 decision (reference 01) that concluded she was not eligible to receive benefits for the week ending June 18, 2005, because she received vacation pay from Operation New View (employer) for this week. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 4, 2005. The claimant participated in the hearing. Joy Davis 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:

Should the vacation pay the claimant received be attributed to the week ending June 18, 2005?

FINDINGS OF FACT:

The claimant's last day of work for the employer was June 3, 2005. When the claimant worked, she worked 35 hours a week. As of June 3, 2005, the claimant had accumulated 33.8 hours of vacation. The claimant did not work the week ending June 11. Instead, she used the 33.8 hours of vacation during this week.

The claimant established a claim for unemployment insurance benefits during the week of June 12, 2005. The claimant filed a claim for unemployment insurance benefits during the week of June 18, 2005. The claimant did not earn any wages or receive any vacation pay for this week.

REASONING AND CONCLUSIONS OF LAW:

When an employer makes a vacation pay payment, the payment is considered wages for unemployment insurance purposes and must be deducted from a claimant's maximum weekly benefit amount. Iowa Code §96.5-7.

The claimant received a vacation payment, but the payment was for the week ending June 11 not June 18, 2005. The claimant did not receive any payment from the employer for the week ending June 18, 2005. Therefore, the claimant is eligible to receive benefits for the week ending June 18, 2005.

DECISION:

The representative's July 6, 2005 decision (reference 01) is reversed. The claimant did not receive any payment from the employer, wages or vacation pay, for the week ending June 18, 2005. Therefore, the claimant is eligible to receive benefits for the week ending June 18, 2005.

dlw/sc