

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

LOREN HARRINGTON
212 – 2ND ST NW
LE MARS IA 51031

WELLS DAIRY INC
PO BOX 1310
LE MARS IA 51031-1310

Appeal Number: 05A-UI-03605-CT
OC: 02/27/05 R: 01
Claimant: Appellant (4)

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:

Loren Harrington filed an appeal from a representative's decision dated March 28, 2005, reference 04, which denied benefits for the two weeks ending March 12, 2005 because of his receipt of vacation pay from Wells Dairy, Inc. After due notice was issued, a hearing was held by telephone on April 21, 2005. Mr. Harrington participated personally and offered additional testimony from Mary Valentine. The employer responded to the notice of hearing but the designated witness was not available at the number provided at the scheduled time of the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Harrington was separated from Wells Dairy, Inc. on February 25, 2005. In connection with his separation, he was paid vacation pay in the gross amount of \$1,248.69. The net amount was directly deposited to Mr. Harrington's bank account. The employer designated the vacation pay to cover the period from February 27 through March 4, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Mr. Harrington's receipt of vacation pay has on his entitlement to job insurance benefits. The employer timely designated the vacation pay to cover the period from February 27 through March 4, 2005. The administrative law judge sees no reason to attribute the vacation pay to a period beyond that designated by the employer. See 871 IAC 24.16(96). Therefore, the vacation pay will not be deducted for any period after March 4, 2005.

DECISION:

The representative's decision dated March 28, 2005, reference 04, is hereby modified. Mr. Harrington is ineligible to receive job insurance benefits for the one week ending March 4, 2005 because of his receipt of vacation pay from Wells Dairy, Inc.

cfc/sc