

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD M FERRIS**  
Claimant

**APPEAL NO. 09A-UI-04889-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STRAUSS SAFE & LOCK CO**  
Employer

**OC: 01/11/09**  
**Claimant: Appellant (4)**

Section 96.5-7 – Vacation Pay

**STATEMENT OF THE CASE:**

Todd M. Ferris filed a timely appeal from an unemployment insurance decision dated March 25, 2009, reference 01, that denied unemployment insurance benefits to him for the five weeks ending February 14, 2009 upon a finding that he was entitled to receive vacation pay for the five weeks in question. After due notice was issued, a telephone hearing was held April 22, 2009 with Mr. Ferris participating. President Dan Swift participated for the employer, Strauss Safe & Lock Company. The administrative law judge takes official notice of agency benefit payment records.

**ISSUE:**

Has the claimant received vacation pay in connection with his separation from employment?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Todd M. Ferris' last day of employment with Strauss Safe & Lock Company was January 9, 2009, a Friday. He normally worked a five-day week, Monday through Friday. In connection with his separation from employment, he received vacation pay in the amount of \$1,105.60 per week for three weeks. He reported all of the vacation pay, but it was attributed by the agency to the very first week of unemployment.

The employer reported to the agency the vacation pay but added to it some personal time off pay, not knowing that PTO pay is not deductible for benefits for unemployment insurance purposes. Mr. Ferris' weekly benefit amount for unemployment insurance purposes is \$389.00.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the commencement of Mr. Ferris' unemployment insurance benefits must be delayed because of his vacation pay.

Iowa Code section 96.5-7 requires that vacation pay be deducted dollar for dollar from an individual's unemployment insurance benefits for the week or weeks to which the vacation pay is attributed. Based upon the evidence in the record and the statute, the administrative law judge concludes that benefits must be withheld for the three weeks ending January 31, 2009 because the vacation pay attributed to each of those weeks exceeds Mr. Ferris' unemployment insurance weekly benefit amount.

**DECISION:**

The unemployment insurance decision dated March 25, 2009, reference 01, is modified. Benefits must be withheld for the three weeks ending January 31, 2009 because the claimant received vacation pay for each of these weeks in an amount exceeding his weekly benefit amount. He is entitled to receive unemployment insurance benefits, provided he is otherwise eligible, effective February 1, 2009.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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