

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIM E SMITH
Claimant

APPEAL NO. 09A-UI-10500-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PENFORD PRODUCTS CO
Employer

OC: 03-22-09
Claimant: Appellant (2)

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

The claimant filed a timely appeal from an unemployment insurance decision dated July 17, 2009, reference 01, that denied unemployment insurance benefits for the three weeks ending April 11, 2009, upon a finding that the claimant was entitled to receive severance pay for the weeks in question. After reviewing all matters of record, the administrative law judge concludes that a formal hearing is not required.

ISSUE:

Did the claimant receive deductible severance pay?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Upon separation from employment with Penford Products Company, the claimant received money in consideration for a promise not to sue the employer over the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant has received deductible severance pay. She has not.

The evidence in this record establishes that the claimant received money in consideration for her binding promise not to sue the employer over the separation from employment. This contractual payment is not traditional severance pay provided as a gift by an employer to a departing employee. The contractual payment should not be deducted from unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated July 17, 2009, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the three weeks ending April 11, 2009, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css