

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN F HOWELL**  
Claimant

**APPEAL NO. 09A-UI-08501-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SAUER-DANFOSS (US) COMPANY**  
Employer

**OC: 01/25/09**  
**Claimant: Appellant (4)**

Section 96.5-5 – Severance Pay

**STATEMENT OF THE CASE:**

John Howell (claimant) appealed a representative's June 4, 2009 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits for the seven-week period ending March 14, 2009, due to the receipt of severance pay from Sauer-Danfoss (employer). The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. David Howell observed the hearing. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant received severance pay and, therefore, is not eligible to receive unemployment insurance benefits for the seven-week period ending March 14, 2009.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from March 2007, until January 14, 2009, as a full-time production machine technician. The claimant earned \$15.00 per hour and worked 40 hours per week or \$600.00 per week.

When the claimant's employment ended the employer gave the claimant severance pay in an amount of \$3,632.00. The severance pay represented six weeks of wages and began the week ending January 24, 2009, after the claimant's vacation pay was applied. The claimant filed his claim for unemployment insurance benefits with an effective date of January 25, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant received severance pay and is not eligible to receive unemployment insurance benefits for the period ending February 28, 2009.

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 received severance pay for the period ending February 28, 2009. Under the provisions of the above Code section the claimant is disqualified from receiving unemployment insurance benefits for the five-week period ending February 28, 2009, due to the receipt of the severance pay.

**DECISION:**

The June 4, 2009, reference 01, decision is modified in favor of the appellant. The claimant is disqualified from receive unemployment insurance benefits for the five-week period ending February 28, 2009, due to the receipt of severance pay.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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