

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RAOUL A SCHLOEMAN**  
Claimant

**WHIRLPOOL CORPORATION**  
Employer

**APPEAL 19R-UI-07901-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 06/30/19**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(5) – Other compensation  
Iowa Code § 96.5(7) – Payment – Vacation pay  
Iowa Admin. Code r. 871-24.18 – Wage-earnings limitation  
Iowa Admin. Code r. 871-24.13(2) – Payment – Deductible holiday

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the August 14, 2019 (reference 02) unemployment insurance decision that denied benefits for the one week ending July 6, 2019. The parties were properly notified of the hearing. A telephone hearing was scheduled for September 13, 2019, at 9:00 a.m. No hearing was held because claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the scheduled hearing. On September 13, 2019, a default decision was issued dismissing claimant's appeal.

On September 30, 2019, claimant appealed to the Employment Appeal Board (EAB). On October 9, 2019, the EAB remanded this matter to the Appeals Bureau for a hearing on the merits. Upon remand, due notice was issued and a hearing was held on October 30, 2019 at 9:00 a.m. Claimant participated. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether vacation pay was correctly deducted.  
Whether holiday pay was correctly deducted.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was laid off from July 1, 2019 through July 5, 2019 due to a plant closure. Claimant did not work or earn any wages that week. Claimant received holiday pay in the gross amount of \$160.00 for July 4, 2019. Claimant filed an unemployment insurance benefit claim with an effective date of June 30, 2019. Claimant filed a weekly benefit claim on July 7, 2019 for the benefit week ending July 6, 2019 and reported \$160.00 of holiday pay. Claimant's weekly benefit amount (WBA) is \$467.00. For the benefit week ending July 6, 2019, claimant received a benefit payment in the amount of \$423.00.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's holiday pay was correctly deducted from claimant's unemployment insurance benefits for the benefit week ending July 6, 2019.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) 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, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. 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", subparagraph (1), (2), or (3), 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.

Iowa Admin. Code r. 871-24.13(2)a provides:

(2) Deductible payments from benefits. The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96):

a. Holiday pay. However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

Iowa Admin. Code r. 871-24.18 provides:

An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

In accordance with Iowa Administrative Code rule 871-24.18, the holiday pay is deductible from claimant's weekly benefit amount as follows:

$\$160.00$  (holiday pay) -  $\$116.75$  (25% of WBA) =  $\$43.25$  (holiday deduction)  
 $\$467.00$  (WBA) -  $\$43.25$  (holiday deduction) =  $\$423.75$  (partial weekly benefit amount)  
 $\$423.75$  rounded to the lower multiple of one dollar is  $\$423.00$

Claimant is eligible for a reduced weekly unemployment insurance benefit in the amount of \$423.00 for the week ending July 6, 2019, provided he is otherwise eligible

**DECISION:**

The August 14, 2019 (reference 02) unemployment insurance decision is reversed. Claimant's holiday pay was correctly deducted. Claimant is eligible for benefits in the amount of \$423.00 for benefit week ending July 6, 2019, provided he is otherwise eligible. Any benefits claimed and withheld on this basis should be paid consistent with this decision.

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Adrienne C. Williamson  
Administrative Law Judge  
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Decision Dated and Mailed

acw/scn