

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA D JACKSON
Claimant

APPEAL NO. 10A-UI-08189-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

OC: 10/04/09
Claimant: Appellant (2)

Section 96.5-7 – Vacation Pay
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Linda D. Jackson filed an appeal from an unemployment insurance decision dated February 9, 2010, reference 02, that held her ineligible for unemployment insurance benefits for the week ending January 9, 2010 upon a finding that she was entitled to receive vacation pay for that week. After due notice was issued, a telephone hearing was held June 25, 2010 with Ms. Jackson participating. Teresa Feldmann participated for the employer, IAC Iowa City. Exhibits 1 and D-1 were admitted into evidence.

ISSUES:

Has the claimant filed a timely appeal?
Did the claimant receive vacation pay attributable to the week ending January 9, 2010?

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: Linda D. Jackson was on temporary layoff from IAC Iowa City during the week ending January 9, 2010. She received unemployment insurance benefits for that week. Later in January Ms. Jackson also received payout for unused 2009 vacation hours. The employer had reported that information to the agency only after being told that it was being required to do so. The company did not intend the vacation pay to offset 2010 unemployment insurance benefits.

Ms. Jackson went to her local workforce center shortly after receiving the February 9, 2010 decision. She filled out papers that she believed the office was going to submit as an appeal. These documents were not received by the Appeals Bureau. She filed an appeal herself on June 8, 2010.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the appeal can be accepted as timely. It can. The evidence in the record persuades the administrative law judge that Ms. Jackson attempted to file an appeal in early February, shortly after receiving the adverse decision. Since the appeal was not received and docketed by the Appeals Bureau, the administrative law judge concludes that the claimant should have additional time for perfecting her appeal because the delay was the fault of the agency. See 871 IAC 24.35.

The remaining question is whether Ms. Jackson received vacation pay attributable to the week ending January 9, 2010. The testimony of the employer's witness establishes that the company did not intend for the 2009 vacation payout to be used as an offset to 2010 unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated February 9, 2010, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits for the week ending January 9, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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