

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JAMES E TENNISON
233 S DAVIS
OTTUMWA IA 52501

EXCEL CORPORATION
% TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-05117-CT
OC: 04/04/04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(7) d – Vacation Pay

STATEMENT OF THE CASE:

James Tennison filed an appeal from a representative's decision dated April 30, 2004, reference 03, which held he was not eligible to receive job insurance benefits for the one week ending April 10, 2004 because of his receipt of vacation pay from Excel Corporation. After due notice was issued, a hearing was held on May 28, 2004. Mr. Tennison participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Tennison's last day of work for Excel Corporation was April 5, 2004. In connection with his separation, he was paid vacation pay in the gross amount of \$456.82. The employer designated the vacation pay to cover the one-week ending April 10, 2004. Mr. Tennison reported vacation pay in the amount of \$457.00 when he called in his claim for the week ending April 17, 2004 and, therefore, did not receive job insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect Mr. Tennison's receipt of vacation pay has on his entitlement to job insurance benefits. The employer timely designated the vacation pay to cover the week ending April 10, the first week following the separation from employment. Because the vacation pay exceeded Mr. Tennison's weekly job insurance benefit amount, he was not entitled to benefits for the week ending April 10, 2004.

DECISION:

The representative's decision dated April 30, 2004, reference 03, is hereby affirmed. Mr. Tennison was not eligible to receive job insurance benefits for the one week ending April 10, 2004 because of his receipt of vacation pay from Excel Corporation. Benefits are allowed thereafter, provided he satisfies all other conditions of eligibility.

cfc/kjf