

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**YAO S PHOU**  
Claimant

**APPEAL NO. 10A-UI-06349-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IAC IOWA CITY LLC**  
Employer

**OC: 12/20/09**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Yao S. Phou filed an appeal from an unemployment insurance decision dated March 16, 2010, reference 01, that denied benefits to her for the week ending January 9, 2010 upon a finding that she had received or would receive vacation pay attributed to that week. Due notice was issued for a telephone hearing to be held June 10, 2010. Although the claimant provided a telephone number at which she could be contacted, there was no answer when called at the time of the hearing. With the consent of the employer, this decision is based on information in the administrative file.

**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 examined all matters of record, the administrative law judge finds: Yao S. Phou was on a temporary layoff from IAC Iowa City during the week ending January 9, 2010. In the middle of January she received a payout of unused vacation hours from 2009 in the amount of \$485.80. The company did not intend for the vacation pay to offset unemployment insurance benefits. It was reported to the agency only at the request of the agency.

The claimant attempted to file an appeal prior to March 26, 2010. She was advised by her local workforce development center that it would be futile to do so.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the appeal can be accepted as timely. It can. The evidence in this record, the claimant's appeal letter, establishes that the reason for delay in filing the appeal was misinformation from the agency. Under these circumstances, additional time for filing the appeal may be granted.

The remaining question is whether the claimant is eligible to receive unemployment insurance benefits for the week ending January 9, 2010. She is. The evidence in the record establishes that the employer did not intend for the payout for unused vacation time of 2009 to be used to offset unemployment insurance benefits for the week in question.

**DECISION:**

The unemployment insurance decision dated March 16, 2010, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the week ending January 9, 2010, provided she is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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