

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DERRICK L PEOPLES
Claimant

LOFFREDO GARDENS INC
Employer

APPEAL 17A-UI-06911-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/11/17
Claimant: Appellant (4)**

Iowa Code § 96.5(5)b – Workers' Compensation/Temporary Total Disability Benefits
Iowa Admin. Code r. 871-24.13(3)d – Workers' Compensation/TTD Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 3, 2017, (reference 03) unemployment insurance decision that deducted workers' compensation benefits from unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on July 27, 2017. Claimant participated personally and was represented by Jon Geyer. Employer participated through human resource manager Mike Vilez. Employer's Exhibits 1 through 3 were received.

ISSUE:

Is the claimant eligible for unemployment insurance benefits while receiving temporary total disability workers' compensation benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was injured at work and has been receiving temporary total disability (TTD) workers' compensation benefits. Claimant reached maximum medical improvement (MMI) on June 26, 2017. Effective June 28, 2017, he will receive permanent partial disability (PPD) workers' compensation benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5(5) provides in pertinent part:

An individual shall be disqualified for benefits:

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:

...

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

. . .

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", "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.

Iowa Admin. Code r. 871-24.13(3)d provides:

(3) *Fully deductible payments from benefits.* The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

d. Workers' compensation, *temporary disability only.* The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which the payment is paid. (Emphasis added.)

From June 11, 2017, through June 28, 2017, claimant received TTD benefits in an amount greater than his weekly unemployment insurance benefits. TTD benefits are fully deductible from unemployment insurance benefits.

Effective June 28, 2017, claimant is receiving PPD benefits, which are not deductible from unemployment insurance benefits. Therefore, claimant is eligible for unemployment insurance benefits effective June 28, 2017.

DECISION:

The July 3, 2017, (reference 03) unemployment insurance decision is modified in favor of appellant. As of June 28, 2017, claimant's workers' compensation benefits are classified as permanent partial disability (PPD) and he is eligible for unemployment insurance benefits.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn