

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA T NGUYEN**  
Claimant

**APPEAL NO. 10A-UI-04870-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IAC IOWA CITY LLC**  
Employer

**OC: 12/20/09**  
**Claimant: Appellant (4)**

Section 96.5-7 – Vacation Pay

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated March 25, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits for the two weeks ending January 16, 2010. After due notice, a telephone conference hearing was scheduled for and held on May 7, 2010. Employer participated by Teresa Feldmann, Assistant Human Resources Manager. Claimant failed to respond to the hearing notice and did not participate. Official notice is taken of agency records. The record consists of the testimony of Teresa Feldmann and agency records.

**ISSUE:**

Whether the vacation pay was deducted for the correct period.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is an automotive component manufacturer in Iowa City, Iowa. The claimant was on temporary layoff for the entire week ending January 9, 2010, and partial layoff for the week ending January 16, 2010. The claimant received \$484.00 in unemployment insurance benefits for the week ending January 9, 2010, and \$385.00 for the week ending January 16, 2010, for a total of \$869.00.

On January 15, 2010, the claimant received a lump sum payment for unused vacation pay in 2009. The amount of the vacation pay was \$1,743.40 gross and \$1,043.79 net. The employer did not file a designation for the weeks for which the vacation payment should apply.

**REASONING AND CONCLUSIONS OF LAW:**

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies

within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If an employer does not designate the dates to which vacation pay applies by the ten-day deadline, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code section 96.5-7, 871 IAC 24.16. If the employer makes the original designation of the vacation period in a timely manner, the employer may extend the vacation period by designating the period of the extension in writing to the department before the period of extension begins. 871 IAC 24.26(2).

Since the employer did not designate the period of time the vacation pay should be attributed and the claimant filed a claim immediately, the vacation pay must be applied to the week ending January 9, 2010. 871 IAC 24.26(3). Therefore, the claimant is eligible to receive benefits as of January 10, 2010, and no further vacation pay deductions shall be made after January 9, 2010.

**DECISION:**

The representative's March 25, 2010 decision (reference 01) is modified in the claimant's favor. Since the employer did not designate the days the vacation pay should be attributed, the vacation pay shall only be attributed to the week ending January 9, 2010. As of January 10, 2010, the claimant is eligible to receive benefits and no vacation pay shall be deducted after January 9, 2010.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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