

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN S BRANNAN
Claimant

APPEAL NO. 09A-UI-07687-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MODINE MANUFACTURING COMPANY
Employer

OC: 02/01/09
Claimant: Appellant (4)

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Brian Brannan (claimant) appealed a representative's May 15, 2009 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits for the four-week period ending March 14, 2009, due to the receipt of severance pay from Modine Manufacturing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 11, 2009. The claimant participated personally. The employer participated by Ron Hamilton, Human Resources Manager.

ISSUE:

The issue is whether the claimant received severance pay and, therefore, is not eligible to receive unemployment insurance benefits for the four-week period ending March 14, 2009.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 24, 2008 as a full-time quality engineer. The claimant was separated on February 13, 2009, and received vacation pay in the amount of \$107.68 based upon a rate of pay at \$215.00 per day. The employer incorrectly reported an amount of \$430.76 on the Notice of Claim. In addition, the claimant received \$4,307.69 in severance pay. This represented four weeks of pay from February 17 through March 16, 2009.

The claimant filed for unemployment insurance benefits with an effective date of February 1, 2009. His weekly benefit amount is \$361.00. The claimant did not claim unemployment benefits until the week ending March 14, 2009.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant received severance pay and is not eligible to receive unemployment insurance benefits for the four-week period ending March 14, 2009.

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

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

c. A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

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. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

The claimant received severance pay for the four-week ending March 14, 2009. During the week ending March 14, 2009, the claimant received \$215.00 in severance pay and \$361.00 in unemployment insurance benefits. Under the provisions of the above Code section the claimant is eligible to receive the difference between \$361.00, his weekly benefit amount, and \$215.00, the amount of severance pay. For the week ending March 14, 2009, the claimant should have received \$146.00 in unemployment insurance benefits due to the receipt of the severance pay.

DECISION:

The May 15, 2009, reference 02, decision is modified in favor of the appellant. The claimant is disqualified from receive unemployment insurance benefits for the three-week period ending March 7, 2009, due to the receipt of severance pay. He is eligible to receive unemployment insurance benefits in an amount of \$146.00 for the week ending March 14, 2009.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs