

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOY L SCHNEIDER
Claimant

NORTHEAST IOWA MEDICAL EDUCATION
Employer

APPEAL 18A-UI-11078-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/21/18
Claimant: Respondent (1)**

Iowa Code § 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

The employer filed an appeal from the November 8, 2018, (reference 04) that deducted vacation pay from one week of her unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 29, 2018. Claimant participated. Employer participated through representative Bonnie Hough, Administrator; Heather Stech, Nurse Manager; and Diane Ravn, Front Office Manager. Official notice was taken of agency records.

ISSUE:

Did the claimant receive vacation pay that was properly deducted from her unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was off work on vacation on October 22, 2018 and was paid \$130.57 for the day for eight hours of vacation time. The claimant was separated from her employment on October 23, 2018. She filed a claim for benefits with an effective date of October 21, 2018. When claimant filed her weekly continuing claim for the week ending October 27, 2018 she properly reported payment of vacation pay in the amount of \$131.00.

After her separation from employment the claimant was not paid any additional vacation pay nor was she paid any severance payment.

For the reasons that follow, the administrative law judge concludes the vacation pay was deducted for the correct period.

Iowa Code section 96.5(7) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

7. Vacation pay.

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.19, subsection 41, and shall be applied as provided in paragraph "c" hereof.

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation. The amount of a payment or obligation to make payment, is deemed "wages" as defined in section 96.19, subsection 41, and shall be applied as provided in paragraph "c" of this subsection 7.

c. Of the wages described in paragraph "a" or paragraph "b", a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted, not to exceed five workdays. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums equal or exceed the individual's weekly benefit amount. If the amount is less than the weekly benefit amount of such individual, the individual's benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs "a", "b", and "c", if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in section 96.19, subsection 41, for any period in excess of five workdays and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter.

e. If an employer pays or is obligated to pay a bonus to an individual at the same time the employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

The claimant properly reported all vacation pay she earned during the first week she claimed unemployment insurance benefits. The \$131.00 was properly deducted from her unemployment insurance benefits. Since claimant was not paid any additional or accrued vacation pay after her separation from employment, no further deduction for vacation pay need be made.

DECISION:

The November 8, 2018, (reference 04), decision is affirmed. The vacation pay was deducted for the correct period.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs