

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS W FRANZEN
Claimant

APPEAL 18A-UI-06372-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/21/18
Claimant: Appellant (1)**

Iowa Code § 96.5(5) – Receipt of Pension

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 5, 2018, (reference 03), decision that deducted pension from benefits. After due notice was issued, a hearing was held by telephone conference on June 26, 2018. Claimant participated. Official notice was taken of agency administrative records.

ISSUE:

Was claimant's pension correctly deducted from his unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began receiving a pension in 2015. He is still currently working for the same base period employer on a part time basis. The claimant is receiving a gross monthly pension in the amount of \$40.06 based upon an employer contribution of 100 percent and an employee contribution rate of 0 percent. The agency has calculated his weekly pension amount as \$9.24.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the pension was deducted correctly.

Iowa Code section 96.5(5) provides:

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

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:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

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

(3) 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 subparagraph, 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.

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", subparagraph (1), (2), or (3), 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.

Because the employer contribution was 100 percent, the pension was correctly deducted.

DECISION:

The June 5, 2018, (reference 03), decision is affirmed. The pension was deducted correctly.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs