

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN A JENNERMAN
Claimant

APPEAL NO. 06A-UI-09850-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/27/06 R: 04
Claimant: Appellant (1)**

Section 96.5(5)c - Pension

STATEMENT OF THE CASE:

The claimant, Stephen Jennerman, filed an appeal from a decision dated September 29, 2006, reference 05. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 23, 2006. The claimant participated on his own behalf.

ISSUE:

The issue is whether the claimant is receiving pension benefits.

FINDINGS OF FACT:

Stephen Jennerman filed a claim for unemployment benefits with an effective date of August 27, 2006. His base period wages included wages from the City of Cedar Falls for the second and third quarters of 2005. Mr. Jennerman is receiving a pension from the City of Cedar Falls in the amount of \$2,432.00 per month, pro-rated to \$561.00 per week. Both the claimant and this employer contributed to the pension during his employment.

REASONING AND CONCLUSIONS OF LAW:

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 is receiving a pension from a base period employer, who contributed to the pension along with the claimant. Under the provisions of the above Code section, the pension is deductible from Mr. Jennerman's unemployment benefits.

DECISION:

The representative's decision of September 29, 2006, reference 05, is affirmed. Stephen Jennerman is receiving a pension and it is deductible from his weekly benefit amount.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw