

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICIA A FUNK
Claimant

GENERAL MILLS OPERATIONS LLC
Employer

APPEAL 18A-UI-02631-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/10/17
Claimant: Appellant (1)

Iowa Code § 96.5(5) – Receipt of Pension

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 23, 2018, (reference 03) decision that deducted pension from benefits. After due notice was issued, a hearing was held by telephone conference on March 23, 2018. Claimant Patricia A. Funk participated. Employer General Mills Operations, L.L.C., did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant's pension correctly deducted from benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was separated from employment in late 2017 and began receiving a pension. Effective January 1, 2018, the claimant received a gross monthly pension in the amount of \$1,647.21 based upon an employer contribution of 100 percent and an employee contribution rate of 0 percent. Claimant also receives a monthly sum of \$301.01 from what she referred to as "the old pension." Claimant did not contribute anything to this pension either. Claimant's weekly benefit amount (WBA) is \$473.00.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits:

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. (Emphasis added.)

Iowa Admin. Code r. 871-24.13(3)e provides:

(3) *Fully deductible payments from benefits.* The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis: ...

e. Pension, retirement, annuity, or any other similar *periodic payment* made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced by that portion of the payment which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan. (Emphasis added.)

The administrative law judge concludes that claimant's monthly pension is correctly deducted from her unemployment insurance benefits. Claimant continues to receive \$23.00 each week, which is the difference between her weekly benefit amount and \$449.59, the weekly pension amount.

DECISION:

The February 23, 2018, (reference 03) unemployment insurance decision is affirmed. The pension is deducted correctly.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn