

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXANDRIA STEWART
Claimant

APPEAL NO: 15A-UI-10864-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FISHER CONTROLS INTERNATIONAL LLC
Employer

OC: 08/02/15
Claimant: Appellant (1)

Section 96 5-5 – Severance Pay

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 28, 2015, reference 03, decision that determined her severance pay was correctly deducted from her benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 13, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant's severance pay was correctly deducted.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with Fisher Controls International through July 31, 2015, when she was permanently laid off. She received severance pay in the amount of \$4,846.00 in lieu of salary. The severance pay was paid in a lump sum August 7, 2015. The employer did not designate the period of time to which the severance pay was to be applied. The claimant forgot to report the severance pay when she made her claim the week ending August 8, 2015.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

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

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

Iowa Admin. Code r. 871-24.13(4)b provides:

(4) Nondeductible payments from benefits. The following payments are not considered as wages and are not deductible from benefits:

b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

The claimant's separation from employment occurred July 31, 2015, and she received a lump sum severance payment August 7, 2015, in the amount of \$4,846.00. She forgot to report the severance pay during her first week of benefits which was the week ending August 8, 2015. Consequently, the administrative law judge concludes the claimant's severance pay was correctly deducted.

DECISION:

The September 28, 2015, reference 03, decision is affirmed. The severance pay was deducted for the correct period. The claimant was paid severance pay through the week ending August 8, 2015.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs