

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDALL L FITCH
Claimant

DES MOINES IND COMMUNITY SCH DIST
Employer

APPEAL 17A-UI-04459-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/26/17
Claimant: Appellant (1)

Iowa Code § 96.5(5) – Pension Pay

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 21, 2017, (reference 04) unemployment insurance decision that deducted pension from benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 15, 2017. The claimant participated and testified. The employer participated through Benefits Specialist Rhonda Wagoner.

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 eligible to receive a pension beginning in January 2017. Effective January 31, 2017, the claimant received a gross monthly pension in the amount of \$1,629.69 based upon an employer contribution of 60 percent and an employee contribution rate of 40 percent. The employer's prorated share of the weekly pension amount is \$225.65. Claimant's weekly benefit amount (WBA) is \$447.00.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

Because the employer contribution was 60 percent, that proportion of contribution to the monthly pension, converted to a weekly figure, is \$225.65, and that figure is less than the WBA, the pension is correctly deducted.

DECISION:

The April 21, 2017, (reference 04) unemployment insurance decision is affirmed. The pension is deducted correctly.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/scn