

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELAN M THONGSOUK
Claimant

APPEAL NO. 12A-UI-08222-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/03/11
Claimant: Appellant (1)

Section 96.5(5)c – Pension

STATEMENT OF THE CASE:

The claimant, Elan Thongsouk, filed an appeal from a decision dated June 29, 2012, reference 05. The decision reduced the claimant's weekly unemployment benefit amount by the amount of his pension. After due notice was issued a hearing was held by telephone conference call on August 8, 2012. The claimant participated on his own behalf and with Doug Baily and Lynn Kannuan. Steve Baccam acted as interpreter

ISSUE:

The issue is whether the claimant's pension may be deducted from his weekly unemployment benefit.

FINDINGS OF FACT:

Elan Thongsouk filed a claim for unemployment benefits with an effective date of April 3, 2011. He had worked for more than 30 years with Electrolux and when he filed for his retirement pension, it was made retroactive to April 2011. He received \$816.75 per month for an average weekly amount of \$188.00. His weekly unemployment benefit amount is \$390.00.

Electrolux was the sole contributor to the pension fund.

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 received pension benefits which were funded solely by the employer, effective in April 2011. Under the provisions of the above Code section, the average weekly amount of the pension benefits must be deducted from the weekly unemployment benefits amount.

DECISION:

The representative's decision of June 29, 2012, reference 05, is affirmed. Elan Thongsouk's pension benefits were deducted for the correct period.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs