

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA S CONKLING
Claimant

APPEAL NO. 11A-UI-07631-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELECTROLUX HOME PRODUCTS INC
Employer

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

Iowa Code § 96.5(5)c – Receipt of Pension

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 25, 2011 (reference 01) decision that did not deduct any pension from benefits. After due notice was issued, a hearing was set for hearing by telephone conference call on July 6, 2011. Claimant responded to the hearing notice but no hearing was held.

ISSUE:

The issue is whether the claimant filed an appeal from a favorable decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an appeal from a favorable decision holding that no pension benefits would be withheld from benefits. That appeal was set for hearing in error.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant filed an appeal from a favorable decision and the appeal was set for hearing in error.

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 filed an appeal from a favorable decision on the above-referenced issue, which was set for hearing in error. The representative's decision has become final and remains in full force and effect.

DECISION:

The May 25, 2011 (reference 01) decision is affirmed. The claimant filed an appeal from a favorable decision, which was set for hearing in error. The representative's decision has become final and remains in full force and effect.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw