

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEVIN G SCHULTZ**

Claimant

**APPEAL NO: 14A-UI-10243-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLUE RIDGE PAPER PRODUCTS INC**

Employer

**OC: 08/31/14**

**Claimant: Appellant (2)**

Iowa Code § 96.5(5) – Deduction of Pension Benefits from Weekly Benefit Amount  
871 IAC 24.13(1) & (3) – Deduction of Pension Benefit from Weekly Benefit Amount

**STATEMENT OF THE CASE:**

Kevin G. Schultz (claimant) appealed a representative's September 24, 2014 decision (reference 03) which concluded the retirement benefits the claimant receives must be prorated to a weekly amount and deducted from his maximum weekly benefit amount. This appeal was consolidated for hearing with one related appeal, 14A-UI-10243-DT. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 4, 2014. The claimant participated in the hearing. A review of the Appeals Section's conference call system indicates that Blue Ridge Paper Products (employer) failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Should the retirement benefits the claimant receives be prorated to a weekly amount and be deducted from his maximum weekly benefit amount?

**FINDINGS OF FACT:**

The claimant established an unemployment insurance benefit year effective August 31, 2014. By operation of law, the claimant's base period was therefore set as being the second quarter 2013 through the first quarter 2014.<sup>1</sup> The claimant's only wage credits during this base period were earned with this employer. Using those base period wage credits, the claimant's weekly benefit amount was calculated to be \$416.00.

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<sup>1</sup> The base period is "the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim." Iowa Code § 96.19-3.

The claimant does receive pension benefits of \$182.81 per month from a prior employer, International Paper Company, which was 100 percent funded from that employer. That employer was not a base period employer for the claimant's claim; he last worked for that employer about ten years ago. The Agency representative treated the claimant's pension as coming from his most recent employer, and attributed \$42.19 against the claimant's weekly benefit eligibility.

#### **REASONING AND CONCLUSIONS OF LAW:**

When a claimant receives a pension or retirement payment made under a plan maintained or contributed to by a base period employer, the law provides that the claimant's weekly unemployment benefits must be reduced by the amount of the retirement remuneration. Iowa Code § 96.5-5<sup>2</sup>. The reduction for a pension payment is made on a dollar-for-dollar basis. Rule 871 IAC 24.13(3)(e)<sup>3</sup>.

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<sup>2</sup> Iowa Code § 96.5-5 provides in pertinent part:

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.

<sup>3</sup> 871 IAC 24.13(3) provides in pertinent part:

*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.

Since the base period employer did not contribute payments toward the claimant's retirement account from which he is drawing a pension, the claimant's pension is not deductible against his unemployment insurance benefits.

**DECISION:**

The representative's September 24, 2014 decision (reference 03) is reversed. The claimant's retirement pension is not deductible from his weekly benefit amount.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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