

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHLEEN M BATTLES
Claimant

APPEAL NO. 11A-UI-01471-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 12/26/10
Claimant: Appellant (1)

Section 96.5-5 – Receipt of Pension

STATEMENT OF THE CASE:

Kathleen Battles (claimant) appealed a representative's January 26, 2011 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits effective the week ending December 26, 2010, because she was currently receiving social security, private pension or military pension. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held on March 10, 2011, in Des Moines, Iowa. The claimant participated personally. The employer did not appear for the hearing. The claimant's mother, Margaret Corkery, observed the hearing.

ISSUE:

The issue is whether the claimant's unemployment insurance benefits should be reduced due the receipt of a pension.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed her claim for unemployment insurance benefits on December 26, 2010. The claimant received a gross monthly pension starting in March 2010, which exceeded her unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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

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 pension was correctly deducted.

DECISION:

The representative's January 6, 2011 decision (reference 02) is affirmed. The pension was deducted correctly.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css