

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN CRANDALL
Claimant

APPEAL NO: 14A-UCX-00016-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/05/14
Claimant: Appellant (1)

Section 96.5-5 – Receipt of Pension

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated November 21, 2014, reference 05, (which amended reference 03) that deducted his military pension from benefits after his separation from the military. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was scheduled for December 31, 2014. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant's pension was properly deducted from the claimant's unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was separated on May 1, 2014. The claimant receives a gross monthly pension in the amount of between \$2,300.00 and \$2,400.00 based upon an employer contribution of 100 percent and an employee contribution rate of zero percent.

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.

Because the employer contribution was 100 percent, and the pension is fully deductible from unemployment insurance benefits, the pension was correctly deducted. The claimant's pension exceeds his unemployment benefit insurance amount.

DECISION:

The representative's decision November 21, 2014, reference 05, is affirmed. The claimant's pension was deducted correctly.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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