

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOANN E UTHE
Claimant

APPEAL NO. 10A-UI-08093-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GOODWILL INDUSTRIES
OF CENTRAL IOWA INC**
Employer

OC: 10/18/09
Claimant: Appellant (1R)

Section 96.5-5-C – Pension Deduction

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 1, 2010, reference 03, which held claimant ineligible for unemployment insurance benefits from November 29, 2009, through December 19, 2009, due to receipt of a lump sum pension payment. After due notice, a telephone conference hearing was scheduled for and held on July 21, 2010. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Joann Uthe. Official notice is taken of agency records.

ISSUE:

Whether the lump sum pension payment was deducted for the correct period.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was terminated from her job with Goodwill Industries on October 8, 2009. She filed a claim for unemployment insurance benefits with an original claim date of October 18, 2009. Benefits were awarded and paid. The claimant received a lump sum pension benefit from her employer in the amount of \$894.00 on December 4, 2009. The claimant reported receipt of that lump sum benefits to the agency on December 5, 2009. The claimant thought she had identified the payment as a pension payment, but the system recorded this as vacation pay and the entire amount was applied to the week of December 5, 2009. The claimant did not receive unemployment insurance benefits during that week, but benefits were resumed the following week.

The claimant did not understand why her benefits resumed after one week and reported to her local workforce office that she had received a lump sum pension benefit. She knew that a pension payment was fully deductible from her unemployment benefits. Based on the claimant's self report, the reference 03 decision was issued.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-5 lists several types of payments that are deductible from unemployment insurance benefits. Pensions, annuities, or other similar periodic payments made under a plan maintained or contributed to by a base period or chargeable employer, except for social security benefits, are deductible. See Iowa Code section 96.5-5-c. Such payments are deducted dollar for dollar from unemployment insurance benefits and are not treated as earned wages. See 871 IAC 24.13(3)e.

The claimant does not dispute that her lump sum pension benefits should be deducted from her receipt of unemployment insurance benefits. She thought she had reported her receipt of the pension benefits but the system recorded that payment as vacation pay. The agency, based on the claimant's own report, has now corrected the record and the claimant's pension should be deducted for the period of November 29, 2009 through December 19, 2009. It should be emphasized that the claimant did not receive benefits for the week ending December 5, 2009, as the claimant's lump sum payment was applied to that week. This matter is remanded to the claims section for determination of any overpayment.

DECISION:

The decision of the representative dated June 1, 2010, reference 03, is affirmed. The claimant's receipt of pension benefits was deducted for the correct period.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs