

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA R ORTMAN
Claimant

APPEAL NO. 11A-UI-16015-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLAY CENTRAL/EVERLY COMMUNITY
Employer

OC: 05/29/11
Claimant: Respondent (1)

Section 96.5-5 – Receipt of Pension

STATEMENT OF THE CASE:

Clay Central/Everyly Communtiy (employer) appealed a representative's December 9, 2011 decision (reference 06) that found Teresa Ortman (claimant) eligible to receive unemployment insurance benefits after her separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 30, 2012. The claimant participated personally. The employer participated by Robert Raymer, Superintendent.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was separated in May 2011. Effective in 2003, the claimant received a gross monthly pension in the amount of \$1,114.00 based upon her employment with other employers. This employer did not contribute to those pension 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. No reduction in benefits will be imposed.

DECISION:

The representative's December 9, 2011 decision (reference 06) is affirmed. The pension was deducted correctly.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw