

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY A MOHR
Claimant

APPEAL NO. 06A-UI-08844-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/21/06 R: 01
Claimant: Appellant (2)**

Iowa Code section 96.5(5) - Deduction of Retirement Benefits from Weekly Benefit Amount

STATEMENT OF THE CASE:

Jeffrey Mohr filed a timely appeal from the August 21, 2006, reference 03, decision that denied benefits for the period of May 21, 2006 through July 22, 2006. After due notice was issued, a hearing was held on September 20, 2006. Mr. Mohr participated. The administrative law judge took official notice of the Agency's administrative file.

ISSUE:

Whether the claimant's lump-sum withdrawal from his individual retirement account was deductible from his unemployment insurance benefits. The administrative law judge concludes it was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeffrey Mohr separated from his employment with Southern Archery on May 21, 2006. Mr. Mohr established a claim for unemployment benefits that was effective May 21, 2006. The Agency calculated Mr. Mohr's weekly benefit amount at \$327.00. On May 22, Mr. Mohr discussed with a representative of Iowa Workforce Development his intention to make a one-time, lump-sum withdrawal from his simple individual retirement account (IRA). The individual retirement account was one offered through Mr. Mohr's base period employment with Southern Archery. Mr. Mohr and the employer had each contributed the equivalent of three percent of Mr. Mohr's regular paycheck to the IRA. Mr. Mohr's purpose in speaking with the Agency representative was to learn the impact of a one-time, lump-sum withdrawal from the IRA on his eligibility for unemployment insurance benefits. Mr. Mohr had not yet made the withdrawal at the time he spoke with the Agency representative. The Agency representative advised Mr. Mohr that he would lose approximately one week of benefits. Based on this information, Mr. Mohr moved forward with the one-time, lump-sum withdrawal. On May 23, Mr. Mohr received two checks from Principal Mutual Funds as "premature distributions" from his IRA. The gross amount of the checks was \$10,081.59. The net amount of the checks after taxes was \$8,556.93.

On August 9, 2006, an Agency representative used the analysis applicable to periodic pension or retirement benefit payments to calculate the impact of the lump-sum payment on Mr. Mohr's

eligibility for benefits. The Agency representative took the \$8,556.93 figure and divided it in half to arrive at the employer's contribution to the IRA: \$4,278.47. The Agency representative then divided that amount by Mr. Mohr's average wage during his highest earning quarter of his base period: \$529.52. The Agency representative then divided the employer's contribution by the average weekly wage and concluded that Mr. Mohr should be disqualified for benefits for 8.08 weeks.

REASONING AND CONCLUSIONS OF LAW:

The Federal Unemployment Tax Act (FUTA), 26 U.S. C. § 3301 et seq., creates a cooperative federal-state program of unemployment compensation (UC) to unemployed workers. FUTA allows states discretion in setting up their unemployment insurance system but also establishes certain minimum federal standards that a state must satisfy in order for employers in a state to receive credit against their Federal unemployment tax. See 26 U.S.C. § 3304(a).

At Section 3304(a)(15), FUTA requires that unemployment compensation payable to an individual be reduced for any week "which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual," provided (a) the payment "is under a plan maintained (or contributed to) by a base period employer or chargeable employer," and (b) "the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment"

The purpose of § 3304(a)(15) was to address situations in which states were paying unemployment compensation to individuals who had retired from the labor force and were receiving wage-replacement benefits in the form of retirement or pension payments. The federal law, however, requires such reduction only if the retirement payment is made "under a under a plan maintained (or contributed to) by a base period employer or chargeable employer." The purpose of this provision is to prevent a claimant from in effect "double-dipping" by drawing unemployment compensation from an employer at the same time the person is receiving retirement payments that the employer has in whole or in part funded. Watkins v. Cantrell , 736 F.2d 933, 937-39 (4th Cir. 1984).

Iowa responded to the provisions of § 3304(a)(15) by enacting Iowa Code section 96.5(5)(c), which enacts all of the required and optional clauses of § 3304(a)(15), FUTA.

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:

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 paragraphs "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.

In interpreting statutes, the words of the statute should be given their plain and generally accepted meaning. Judges should interpret statutes to avoid interpretations that produce strained, unreasonable or absurd results. Iowa Federation of Labor v. IDJS, 427 N.W.2d 443, 449 (Iowa 1988). All parts of a statute are to be considered together without giving undue importance to a single or isolated part. The ultimate goal is to ascertain and give effect to the intention of the law making body. The language used in the statute and the purpose for which it was enacted must be examined. Iowa Beef Processors, Inc. v. Miller, 312 N.W.2d 530, 532 (Iowa 1981).

Applying these principles to the statute in question, the words of the statute are not clear and unambiguous and it is necessary to interpret what the statute means. First, the statute itself does not appear to apply to lump-sum payments since it refers to retirement pay or "other similar periodic payment." The rule regarding such payments likewise refers to retirement pay or "other similar periodic payment." 871 IAC 24.13(3)(e). By definition, a lump-sum payment is a "non-periodic payment." The United State Department of Labor (DOL) has interpreted the federal law as not requiring the deduction of lump-sum pension payments using this reasoning. Because § 3304(a)(15), FUTA sets only minimum requirements, states are free to treat a lump sum payment as a "similar periodic payment" and have the option of deducting it in the week it is paid, the week following the claimant's last week of work, or to allocate it over a number of weeks following the last week of work. However, there is no provision of Iowa law---either by statute or rule---that provides for the deduction of a non-periodic lump-sum retirement or pension payment.

The administrative law judge concludes that the Agency representative erroneously applied the procedure for deducting period payments set forth at 871 IAC 24.13(1) to the lump-sum payout Mr. Mohr received. The administrative law judge concludes the lump-sum payment was not deductible from Mr. Mohr's unemployment insurance benefits.

DECISION:

The Agency representative's August 21, 2006, reference 03, is reversed. The lump-sum retirement payment is not deductible. The claimant is eligible for benefits, provided he is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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