

A11-92

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To Whom It May Concern:

I believe Judge Croft made an error in his decision on November 12, 2010. His finding that, "The evidence showed the payment in question was for severance and considered wages." The evidence that has been provided in this case does not support his decision.

I was terminated from NE Bank on August 4, 2009. Because of the allegations NE Bank used to terminate me they were also successful in getting my unemployment denied when I applied at first but on October 16, 2009 unemployment judge Elizabeth Essen found that I was eligible for benefits because, "it was likely NE Bank used tardiness as a pretense for the real reason they discharged me, which was that they did not want to continue to pay the high cost of my health insurance."

Since June of 2006, I have battled a very aggressive leukemia. In October of 2006 I had a, "Double Stem-Cell" transplant. After several complications and a long road to even being seventy-five percent recovered I returned to work at NE Bank fully able to do my job but to my surprise I was not welcome back to work. From the time I returned in February of 2007 until they created a reason to terminate me August 4, 2009, I was attacked daily by several of my superiors and fellow co-workers with anything they could find or create to try and get me to quit due to my high health insurance costs. The stress NE Bank brought upon me put me back into the hospital at one point and almost caused my transplant to relapse as well.

On November 9, 2009, after my termination on August 4, 2009, I served a lawsuit on NE Bank for "Disability Discrimination," failure to accommodate, and retaliation. I had received my last paycheck from NE Bank August 4, 2009 which included all of my last hours worked for them and any/all vacation pay owed to me. I was not owed any wages after that date nor did I work for them after August 4, 2009 to earn any further wages owed.

The only thing negotiated in my lawsuit as far as a dollar amount was when I decided to settle and not go on with it, which was back and forth between us with a few different lump sums for the damages from NE Bank onto me. I asked for \$100,000 then \$65,000 and finally we agreed upon the amount of \$50,000. There were no negotiations for "wages" or "severance" out of that total, it was just for one payment of \$50,000 and attorney fees to be taken out of it.

Pursuant to IRS regulations, taxes are required to be taken out of a settlement for claims of employment discrimination. NE Bank performed that task and then made payment to my attorney and I for the remaining

balance up to the total agreed upon amount of fifty thousand dollars however they saw fit to do so as long as it totaled the agreed upon amount which was the three different checks. One to my attorney, one without taxes removed to me, and the last one to me with taxes removed.

The mere fact that taxes were taken out or a portion of the settlement does not make that portion of the settlement for "wages" or "severance."

Payments made by W-2 or 1099 are taxable.

Judge Croft erroneously found that because taxes were removed from a portion of the settlement it was considered "wages" or "severance."

This conclusion is unsupported by Minn. Stat. 286.035. The Statute is silent on this issue and does not state or indicate that if taxes are taken out of a payment, regardless of the purpose of the payment, then that payment is "wages" or "severance."

The issue under the unemployment statute is whether the payment was made for "compensation for services performed." I did not nor have not performed any services for NE Bank after August 4, 2009, therefore the payment from that settlement cannot be considered "wages," "severance," or "compensation for services."

I URGE you to please consider the facts presented to you here.

NE Bank had already proven once to one unemployment judge that it uses false allegations to push a decision in their favor and that is what they are once again doing in this case. The facts in this case show the truth as they did in my other case when NE Bank was also trying to deny me of my unemployment benefits.


TARA Peterson
4/21/2011