

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATHY JO A HAYWARD
Claimant

APPEAL 17A-UI-07064-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE COMMUNITY SCHOOL DIST
Employer

**OC: 07/02/17
Claimant: Appellant (4R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 14, 2017, (reference 02) unemployment insurance decision that denied benefits. The parties waived notice of the hearing. A telephone hearing was held on July 14, 2017. Claimant participated. Employer participated through executive director of human resources Phil Kramer.

ISSUES:

Is the claimant able to work and available for work effective July 2, 2017?
Does claimant have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a substitute paraprofessional/food service worker for the Dubuque Community School District during the 2016-2017 school year. She was hired to work on-call or as needed when work was available. She has reasonable assurance of continued work in the same position for the 2017-2018 school year. Claimant has other regular non-educational institution wages in the base period, which may make her otherwise eligible for benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant does have reasonable assurance of returning to work the following academic term or year but also has other non-educational institution wages in the base period, which may make her otherwise eligible for benefits.

Iowa Code section 96.4(5)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.52(13) provides:

Continuing supplemental (part-time) school employment after loss of nonschool employment. All employers, including employers of part-time workers are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account, whether contributory or reimbursable, pursuant to Iowa Code section 96.7(3) "a"(2).

In this case, the claimant does have other non-educational institution wage credits in the base period. The claimant does have reasonable assurance of continued employment for the 2017-2018 school year, but may be otherwise monetarily eligible according to base period wages.

DECISION:

The July 14, 2017, (reference 02) decision is modified in favor of the appellant. The claimant does have reasonable assurance of returning to work the following academic year or term but she has other wages in the base period. Benefits may be allowed, if sufficient non-school wage credits remaining on the claim make claimant monetarily eligible for benefits. Employer (101899) shall not be charged for benefits.

REMAND: The monetary eligibility issue based upon wages from other employers as delineated in the findings of fact is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
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Decision Dated and Mailed

cal/scn