

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KHALIDA M MUHI**  
Claimant

**APPEAL NO. 16A-UI-09085-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES INDEPENDENT COMMUNITY  
SCHOOL DISTRICT**  
Employer

**OC: 07/24/16**  
**Claimant: Appellant (1)**

Section 96.4-5-b – Benefits During Successive Academic Terms

**STATEMENT OF THE CASE:**

Khalida Muhi (claimant) appealed a representative's August 11, 2016, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits for weeks between successive academic terms with Des Moines Independent Community School District (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 8, 2016. The claimant participated personally. The employer participated by Rhonda Wagoner, Benefits Specialist, and Nicole Wichman, Human Resources Supervisor. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant is between successive terms with an educational institution.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 1, 2012, as a substitute teacher and substitute associate. The employer is an educational institution. The claimant signed for receipt of the employer's handbook upon her hire and each time she signed into the computer. The Assignment Frequency portion of the handbook states, "Substitutes that perform well may be able to obtain a similar frequency of assignments from year-to-year". The claimant worked every academic year from her hire date through the 2015-2016 school year. She expected to work in the 2016-2017 academic year and the employer expected her to return. She filed for unemployment insurance benefits with an effective date of July 24, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is between successive terms with the employer, an educational institution.

Iowa Code § 96.4(5)b 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:

b. Benefits based on service in any other capacity for 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 terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

Iowa Admin. Code r. 871-24.22(2)i(1) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and must be determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payment of benefits is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. An on-call worker (includes a substitute teacher) is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

The claimant is employed by an educational institution. The claimant worked for the 2015-2016 academic year and was expected to work for the 2016-2017 academic year. The two are successive terms. The claimant was between successive terms with an educational institution and not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's August 11, 2016, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between successive terms with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs