

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES G OKWARAMOII
Claimant

APPEAL NO: 13A-UI-07285-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST
Employer

**OC: 06/02/13
Claimant: Appellant (1)**

Iowa Code § 96.4(5) – Reasonable Assurance of Employment and Eligibility Between Academic School Years

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 17, 2013 determination (reference 01) that held the claimant ineligible to receive benefits between academic school years because he had a reasonable assurance of returning to work as a substitute teacher with the employer. The claimant participated in the hearing. The administrative law judge was unable to contact the employer's witness.

The employer was on a phone call when she was first called for the hearing. The employer called the Appeals Section at 2:05 p.m. to participate in the hearing and was on hold for 25 minutes because staff was at a meeting. There were not enough employees answering the phone during the staff meeting. By the time the employer was connected to the administrative law judge, the hearing had been closed and the claimant had been excused.

Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits between academic school years.

ISSUE:

As a substitute teacher, is the claimant eligible to receive benefits between academic school years?

FINDINGS OF FACT:

The claimant started working as an on-needed substitute teacher for the employer in February 2011. He worked as an on-needed substitute teacher for the employer also during the 2012-2013 school year. The claimant plans to work again as an on-needed substitute teacher for the employer in the 2013-2014 school year.

The employer's witness attempted to timely participate in the scheduled hearing. The employer would have participated if the Appeals staff had not attended a mandatory meeting. By the time the employer's phone call was answered, the hearing had been closed and the claimant had been excused.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The employer established good cause to have the hearing be reopened. Since the decision in this matter is not favorable to the claimant and the employer does not need to present additional evidence, the hearing in this matter will not be reopened.

A claimant who works for an educational institution is not eligible to receive benefits during the period between two successive academic years or terms when the claimant performs services in the first of such academic years or terms and has reasonable assurance that he will perform services for the second of such academic years or terms. Iowa Code § 96.4(5)b

The facts establish the claimant has reasonable assurance of performing services for the employer again in the 2013-2014 school year. As of June 2, 2013, the claimant is not qualified to receive benefits.

DECISION:

The hearing will not be reopened. The representative's June 17, 2013 determination (reference 01) is affirmed. The claimant is not eligible to receive benefits during successive academic years because he has reasonable assurance of returning to work as a substitute teacher for the employer during the 2013-2014 school year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css