

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ROSE A HICKS
5032 HWY 61 LOT 27
BURLINGTON IA 52601

BURLINGTON COMMUNITY
SCHOOL DISTRICT
ATTN FRANK SHEKLETON
1429 WEST AVE
BURLINGTON IA 52601

Appeal Number: 04A-UI-06671-HT
OC: 06/08/03 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-5 – Successive Academic Terms

STATEMENT OF THE CASE:

The claimant, Rose Hicks, filed an appeal from a decision dated June 11, 2004, reference 03. The decision found her ineligible to receive benefits based on wages earned from employment with an educational institution, but she was able to draw on wages earned with non-educational employers. After due notice was issued a hearing was held by telephone conference call on July 13, 2004. The claimant participated on her own behalf. The employer, Burlington Community School District (Burlington), participated by Director of Human Resources Frank Shekleton.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Rose Hicks was employed by Burlington beginning August 2001. She is a special education teacher associate.

In May 2004, the claimant was sent two letters by Director of Human Resources Frank Shekleton. One notified her that her position had been "reduced." However, the letter also stated she was not terminated from the district but that available associate positions would be posted throughout the summer and she was eligible to bid on them. The second letter, dated the same day, notified her that the employer intended to continue her employment for the 2004-2005 school year.

As of the date of the hearing, nothing has changed the claimant's status and the employer has approximately 18 positions open for teacher associates. Burlington intends for the claimant to return as an employee in her usual capacity at the beginning of the next school year.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant is employed by the school district to provide instructional services to students. She remains in that capacity at the current time with reasonable assurance of continuing employment for the next year. She is therefore ineligible to receive benefits under the provisions of the above Code section based on any wages earned with Burlington. However, she is eligible to draw upon wages earned with other, non-educational, employers.

DECISION:

The representative's decision of June 11, 2004, reference 03, is affirmed. The claimant is not eligible to receive benefits from wages earned with Burlington Community School District. However, she is eligible to receive benefits based on wages from other non-educational employers.

bgh/kjf