

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE A TRAINOR
Claimant

APPEAL NO: 11A-UI-09960-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HUDSON COMMUNITY SCHOOL DISTRICT
Employer

OC: 06/05/11

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Denise A. Trainor (claimant) appealed a representative's July 25, 2011 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits during a period of unemployment with Hudson Community School District (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 22, 2011. The claimant participated in the hearing. Gerald Able appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible for benefits between successive terms with an educational institution based on wages from that institution?

FINDINGS OF FACT:

The claimant started working for the employer on September 24, 2009. She worked part time as an on-call substitute cook in the employer's school system. She would be called on a varying degree of frequency, sometimes six or seven times a month, sometimes only once or twice a month. She last worked on this basis on or about May 10, 2011. The claimant established an unemployment insurance benefit year effective June 5, 2011 because school was done for the academic year and she would not have further work with the employer until school resumed in August.

The claimant understood that as long as she did not remove herself from the on-call substitute list, she would remain on the list to be called on a substitute basis in the next academic year; since she did not remove herself from the list, as of May 2011 she understood that she could return in August 2011. Prior to the start of the academic term August 18, 2011, the claimant was in fact hired on a permanent part-time basis as a cook with the school district, and will have standardized regular hours in the new school year.

The claimant's base period is the first quarter 2010 through the fourth quarter 2010. Other than her wage credits from her employment with the employer during that period, the claimant's only other wage credits from non-school employers are \$224.00 in the first quarter 2010, \$998.00 in the third quarter 2010, and \$498.00 in the fourth quarter 2010.

REASONING AND CONCLUSIONS OF LAW:

Iowa law provides that a claimant who has wage credits earned through service in any capacity in an educational institution is only eligible for benefits based on those wage credits during the period between two successive academic years if the claimant has a contract or "reasonable assurance" that the claimant will perform services in any such capacity for any educational institution for both such academic years or both such terms. Code § 96.4-5-b¹. "Reasonable assurance" is any written, verbal, or implied agreement that the claimant can expect to perform services for the employer in the same or similar capacity in the next year or term which is not substantially less in economic terms and conditions than the service performed during the prior academic year or term, where that understanding has been communicated to the claimant. 871 IAC 24.51(6).

The employer is an "educational institution." 871 IAC 24.51(1). The claimant worked for the employer during the 2010 – 2011 academic year and is expected to work for the employer during the 2011 – 2012 academic year on the same or better basis. The two academic years are successive terms. Therefore, the claimant was between successive terms with an educational institution, and she would not be eligible to receive unemployment insurance benefits based upon her wage credits with the employer.

In order to be eligible to receive benefits on her wage credits from non-school employers, those wages would need to meet the requirements of Iowa Code § 96.4-4-a that those wages total "at least three and five-tenths percent of the statewide average annual wage," that at least half of that must be in the high quarter of the base period. Under the criteria of that section for a claim year established June 5, 2011, the claimant would have needed to have a minimum amount of

¹ 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 . . . 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.

wage in the high quarter of her base period of \$1,290.00. She did not have sufficient non-school wages in her highest quarter to satisfy this requirement. Therefore, she does not have adequate base period wages from another source upon which to maintain a claim for unemployment insurance benefits. Benefits are denied.

DECISION:

The representative's July 25, 2011 decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between the successive terms with the employer.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css