

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LANE, KERI, L**  
Claimant

**APPEAL NO. 12A-UI-07510-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SERGEANT BLUFF-LUTON COMM SCH DIS**  
Employer

**OC: 03/11/12  
Claimant: Appellant (4)**

Iowa Code Section 96.4(5) – Between Academic Terms Disqualification

**STATEMENT OF THE CASE:**

Keri Lane filed a timely appeal from the June 12, 2012, reference 04, decision that denied benefits effective May 6, 2012, based on the between academic terms disqualification set forth at Iowa Code section 96.4(5). After due notice was issued, a hearing was held on July 17, 2012. At the time the hearing, Ms. Lane was not available at that number she provided for the hearing and did not participate. Denise Patterson, Business Manager, represented the employer.

**ISSUE:**

Whether the claimant is disqualified for unemployment insurance benefits based on the between academic terms disqualification set forth at Iowa Code section 96.4(5).

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Keri Lane established her employment relationship with the Sergeant Bluff – Luton Community School District in December 2011. Ms. Lane worked for the employer as a substitute teacher and substituted on only two days, once in December and again on May 9, 2012. Thereafter, Ms. Lane continued on the employer's substitute teacher roster. The 2011-2012 academic school year ended on May 31, 2012. As of that time, Ms. Lane continued on the substitute teacher roster, with the mutual understanding that the school district would contact her during the 2012-2013 school year if and when the district needed her services. The 2012-2013 academic year begins on August 22, 2012.

Ms. Lane established an original claim for unemployment insurance benefits that was effective March 11, 2012. Ms. Lane's base period consists of the fourth quarter of 2010 and the first, second, and third quarters of 2011. Sergeant Bluff – Luton Community School District is not a base period employer for purposes of the claim year that started for Ms. Lane on March 11, 2012. In other words, any unemployment insurance benefits disbursed to Ms. Lane in connection with the claim year that started March 11, 2012 and that will end on March 9, 2013, would not be based on Ms. Lane's December 2011 or May 2012 substitute teaching for Sergeant Bluff – Luton Community School District.

**REASONING AND CONCLUSIONS OF LAW:**

The between academic terms disqualification set forth at Iowa Code section 96.4(5) provides, in relevant part, as follows:

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.

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c. With respect to services for an educational institution *in any capacity* under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

871 IAC 24.51(1) defines "educational institution" as follows:

Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

871 IAC 24.51(6) defines "reasonable assurance" as follows:

Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and

conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

871 IAC 24.52(6) provides as follows:

*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 section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.*

[Emphasis added.]

The evidence in the record establishes that the school district is an “educational institution” affected by the between academic terms disqualification provision Iowa Code section 96.4(5)(d). The evidence in the record establishes that Ms. Lane was a professional employee of Iowa during the 2011-2012 academic year and has reasonable assurance of employment in a similar capacity during the 2012-2013 academic year. Ms. Lane would be subject to the between academic terms disqualification provision if any of her base period wage credits derived from employment with Sergeant Bluff – Luton Community School District, but the school district is not a base period employer and, therefore, none of the benefits paid to Ms. Lane during the current claim year would be based on work with the school district. Ms. Lane's between academic terms status with the school district should have no impact on her current eligibility for unemployment insurance benefits and would not disqualify her for being eligible for unemployment insurance benefits, provided she meets all other eligibility requirements. The school district will not be charged for any benefits paid to Ms. Lane during the current claim year.

**DECISION:**

The claims representative's June 12, 2012, reference 04 decision is modified as follows. The employer is not a base period employer. Accordingly, the claimant's between academic terms status with this school district would have no impact on her eligibility for unemployment insurance benefits and does not disqualify her for unemployment insurance benefits. The claimant is eligible for benefits, provided he is otherwise eligible. This employer's account will not be charged for any benefits paid to the claimant during the current claim year.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs