

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

LYNN A MURPHY
1646 FINLEY ST
DUBUQUE IA 52001

HILLCREST FAMILY SERVICES
2005 ASBURY RD
DUBUQUE IA 52001-3042

Appeal Number: 06A-UI-07351-DWT
OC: 06/12/05 R: 04
Claimant: Respondent (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 are 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 - Between-Terms Denial

STATEMENT OF THE CASE:

Hillcrest Family Services (employer) appealed a representative's July 12, 2006 decision (reference 02) that concluded Lynn A. Murphy (claimant) was eligible to receive unemployment insurance benefits because she was on a short-term layoff. A telephone hearing was held on August 9, 2006. The claimant participated in the hearing. Julie Heiderscheit, the director of human resources, appeared on the employer's behalf. During the hearing, Employer Exhibits One through Four were admitted as evidence. The administrative law judge took judicial notice of Employment Appeal Board decision 06B-UI-01205. 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.

ISSUES:

Is the claimant subject to Iowa Code § 96.4-5 – denial of benefits – because she is between academic terms?

FINDINGS OF FACT:

The employer is a private non-profit social service agency in Dubuque, Iowa. The employer has several different programs providing services to adults and children, including counseling, foster care, adoption, and residential facilities for adults and children with mental and emotional problems. One component of the employer is a kindergarten through 12th grade school funded by the area school districts for students with behavioral problems that prevent them from being successful in a traditional classroom. The school is accredited by the state board of education as a school. (Employer Exhibit One.)

The claimant worked for the employer as a housekeeper from March 13, 2003 until mid-March 2005. This job involved cleaning offices, apartments, and residence halls, and was not exclusively or primarily cleaning facilities operated by the kindergarten through 12th grade educational program. The claimant worked year-round in this position.

On March 10, 2005, the claimant began working as a teacher associate for the employer. The claimant worked in that position until June 6, 2005, when the school year was completed. On June 6, 2005, the claimant was offered a contract to perform services as a teacher's associate for the 2005-2006 school year. The claimant signed this contract on June 13, 2005. (Employer Exhibit Three.)

The claimant received a letter of assignment on June 1, 2006. This letter indicated the dates she would again be working for the employer during the 2006-2007 school year. The hourly rate of pay was yet to be determined by collective bargaining. (Employer Exhibit Two.)

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 12, 2005. The claimant's base period is January 1 to December 31, 2004, when she was not working as a teacher associate during her base period. The claimant reopened this claim during the week of June 4, 2006.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4-5-a provides that benefits based on services performed in an instructional capacity for an educational institution shall not be paid between two academic years or terms if the individual has a contract or reasonable assurance of employment in the same capacity for both such academic years or terms. In this case, the claimant's benefits were based on her year-round employment as a housekeeper for the employer. As a result, the claimant is not subject to disqualification under Iowa's "between-terms" statute. See decision 05A-UI-07140-SWT, which involved the claimant and the employer on the same issue.

Since the decision for 05A-UI-07140-SWT was not appealed, this decision is final with respect to the factual situation during the claimant's benefit year that started June 12, 2005. The Employment Appeal Board decision 06B-UI-01205 does not apply to this case because the facts in this case are significantly different from the claimant's situation during her benefit year that began June 12, 2005.

DECISION:

The representative's July 12, 2006 decision (reference 02) is affirmed. The claimant is qualified to receive unemployment insurance benefits because she did not perform work as a teacher's associate during the benefit year she established on June 12, 2005.

dlw/kjw