

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

LAVONNA M ENGLEHARDT

Claimant

and

NORTH BUTLER COMM SCHOOL DIST

Employer

: **APPEAL NUMBER:** 22B-UI-07312
: **ALJ HEARING NUMBER:** 22A-UI-07312
:
: **EMPLOYMENT APPEAL BOARD**
: **DECISION**
:
:

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-3, 96.4-5

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Board modifies the Findings of Fact to reflect that the Claimant's offer for the 2020-2021 school year was made in mid-July of 2020.

The Board modifies the Reasoning and Conclusions of Law with the following analysis:

Iowa Workforce regulations provide:

Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met. However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year shall be disqualified under the "between terms denial" provision.

871 IAC 24.52(12). It is possible to read the last sentence as saying “shall be disqualified under the ‘between terms denial’ provision [for the entire term].” Textually it could equally be read as saying “shall be disqualified under the ‘between terms denial’ provision [from the date of the assurance].” Indeed, the second reading is more natural since the time of the assurance is previously referenced in the sentence (“subsequently receives”). Furthermore rule 24.52(2) sets out various scenarios of when a between terms denial is effective, and these refer to the Sunday of the week in which the job was offered, and to the Sunday of the week in which the claimant or employer notified this department of the offer. None of the provisions allow denial prior to the time of the offer.

We do recognize that where there is a pattern of getting employed in the fall there may be an implied assurance of employment in years occurring after the pattern is established. *See UIPL 04-87* (DOLETA 12/24/86). Weighing against that here is the nature of the year 2020, and the uncertainty of school having been canceled that spring. Further the Employer did nothing to dispel this uncertainty until the actual offer in July. Under these circumstances we cannot imply reasonable assurance from the practice in past years.

As a result of our analysis we hold that the Claimant is eligible for the week of May 17, 2020 through July 18, 2020 assuming she is otherwise eligible.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv