

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER O CALLOWAY
Claimant

APPEAL NO: 13A-UI-06932-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAUKEE COMMUNITY SCHOOL DIST
Employer

OC: 05/19/13
Claimant: Appellant (1)

Section 96.4-5-b – Reasonable Assurance/Educational Institution

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 6, 2013, reference 01, that held he was ineligible for benefits because of reasonable assurance with the employer for the next academic term. A telephone hearing was held on July 1, 2013. The claimant participated. Terry Welker, HR Director, participated for the employer.

ISSUE:

Whether claimant has reasonable assurance of continuing employment between academic terms or years.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds: The claimant was hired by the employer school as a substitute teacher on an as-needed basis beginning December 1, 2011. He most recently performed substitute teaching at the end of the school year on May 24, 2013. The employer e-mailed claimant on May 30 to learn if he would be available for substitute teaching in the fall school term, and he responded he would not as he had moved to Oregon.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 other 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.

The administrative law judge concludes that the claimant is not eligible for unemployment benefits effective May 19, 2013, as he has a reasonable assurance of employment with the same employer (an educational institution) between academic terms.

The claimant acknowledges he worked for an educational institution during the fall/spring term ending May 24, 2013 with the prospect of continuing employment in the next, fall term. Claimant contends his employment is likened to day labor as he has no guarantee like a contract that is offered to regular school teachers. He did not offer any legal authority or law precedent to support this position.

The law does not permit the claimant and other similar substitute teacher workers to receive unemployment during the interim period.

DECISION:

The department decision dated June 6, 2013, reference 01, is affirmed. The claimant is not eligible for benefits effective May 19, 2013 due to reasonable assurance.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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