

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARI STELTZER
Claimant

APPEAL NO. 16A-UI-08534-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF DES MOINES PAYROLL DEPT-B
Employer

OC: 07/10/16
Claimant: Respondent (2)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 28, 2016, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 23, 2016. Employer participated by Heather Redenius. Claimant failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether employer gave claimant reasonable assurance of continued employment for the upcoming academic year.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: claimant was employed by the Des Moines Police Department as a part time crossing guard for the Des Moines Community School District during the 2015 – 2016 school year. Claimant has not been working during summer break. Employer, in June, 2016 offered reasonable assurance of work for the next academic year by Sergeant Beardsley speaking with claimant and finding out that claimant wished to continue with her employment.

REASONING AND CONCLUSIONS OF LAW:

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 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.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) 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.

The claimant does have reasonable assurance of continued employment for the 2016-2017 school year. As a result, the claimant is not considered unemployed.

DECISION:

The decision of the representative dated July 28, 2016, reference 01 is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs