

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AARON D POWELL**

Claimant

**APPEAL NO. 12A-UI-13725-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES AREA COMM COLLEGE**

Employer

**OC: 05/06/12**

**Claimant: Appellant (1)**

Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 2, 2012 (reference 03) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on December 18, 2012. Claimant participated. Employer responded to the hearing notice instructions but was not available when the hearing was called and did not participate. Claimant's Exhibit A was received. The employer called after the hearing record was closed and said she was not available at the time the hearing was called or during the hearing because she had a student in her office.

**ISSUE:**

Did claimant have reasonable assurance of continued employment in the next school term?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed as an adjunct instructor with DMACC since the summer of 2007. He works when school is in session and has worked every session, including summer sessions, since then. He is paid hourly as an instrumentalist and lesson instructor and by the course according to the number of students for the guitar courses. Claimant has no other regular non-educational institution employment wage credits in the base period.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did have reasonable assurance of returning to work the following academic term or year.

Iowa Code § 96.4-5-a 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:

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.

871 IAC 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.

In this case, the claimant did not have other non-educational institution wage credits in the base period and did have reasonable assurance of continued employment for the summer term. As a result, the claimant is not considered unemployed. Claimant argues that he is partially unemployed between terms, especially during the summer term when his income is lower than during the traditional nine month school year from late August to May. Because the only base period wage credits are related to adjunct teaching work, the implied understanding is that the claimant will only work during terms when work is available and that work will not be available between terms. Because claimant was hired to work as an adjunct instructor and has worked regularly during each school term for five years with this employer, he is not considered to be unemployed or partially unemployed between academic terms, even when teaching and earning less during the summer term. Accordingly, benefits are denied. If there is a term when work is not available to him or the employer withdraws the course offering, that status may be reconsidered.

**DECISION:**

The October 2, 2012 (reference 03) decision is affirmed. The claimant did have reasonable assurance of returning to work the following academic term. Benefits are denied.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/css