

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TERESA M BRANDEL**

Claimant

**APPEAL 20A-UI-09094-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FORT DODGE COMMUNITY SCHOOL DIST**

Employer

**OC: 05/31/20**

**Claimant: Appellant (4R)**

Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal of the July 23, 2020 (reference 03) unemployment insurance decision that found claimant was not eligible for unemployment benefits effective May 31, 2020 because she had reasonable assurance of employment for the following academic term. The parties were properly notified of the hearing. A telephone hearing was held on September 16, 2020. The claimant, Teresa M. Brandel, participated personally. The employer, Fort Dodge Community School Dist, participated through witness Janina Denetelli. The hearing was consolidated with Appeal No. 20A-UI-09093-DB-T. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Did the claimant have reasonable assurance of employment following a customary vacation or holiday recess?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a regular route bus driver and then switched to a sub bus driver effective June 25, 2020. This employer is an educational institution. The school year ended approximately June 2, 2020 for the 2019-2020 school year. It started on August 17, 2020 for the 2020-2021 school year.

Following the 2019-2020 school year, the employer offered the claimant a contract for her to return in her same position the next year. The claimant did return to driving the next year but reduced her hours due to restrictions she had in place to draw disability payments.

Claimant filed an initial claim for unemployment insurance benefits with an effective date of May 31, 2020. Claimant's administrative records establish that she has other regular non-educational institution employment wage credits in the base period from Mid Iowa Development Association. She worked part-time with Mid Iowa Development Association until she separated from employment with that employer. The separation issue with Mid Iowa Development Association was not investigated as Iowa Workforce Development determined that the claimant had earned ten times her weekly benefit amount since that separation.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.4(5) 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.

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.

c. With respect to services for an educational institution in any capacity under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

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.

Iowa Admin. Code r. 871-24.52(9) provides in part:

(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

Iowa Admin. Code r. 871-24.52(6) provides:

(6) Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. **However, if sufficient non-school wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.**

(emphasis added).

In this case, the claimant did have reasonable assurance of employment for the 2020 – 2021 school year when the employer offered her employment in the contract stating as such. Claimant cannot use the wage credits earned from Fort Dodge Community School District for the purposes of unemployment insurance benefit monetary eligibility. However, claimant has other non-educational institution wage credits in the base period and may be monetarily eligible for benefits based upon the wage credits in the base period earned with Mid Iowa Development Association.

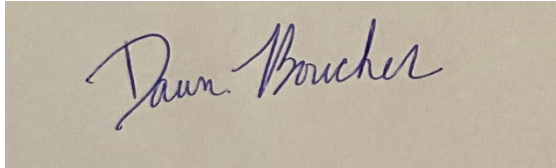
Fort Dodge Community School District will not be charged for benefits paid for weeks claimed between successive years or terms. Claimant may be monetarily eligible for benefits based upon her non-educational institution wage credits with Mid Iowa Development Association.

#### **DECISION:**

The July 23, 2020 (reference 03) decision is modified in favor of the appellant. The claimant was given reasonable assurance of returning to work the following academic year or term. Fort Dodge Community School District (employer account no. 103775) will not be charged for benefits paid for weeks claimed between successive years or terms. Claimant has other non-educational wages in her base period and may be monetarily eligible for benefits based on those wages alone.

**REMAND:**

This matter is remanded to the Benefits Bureau of Iowa Workforce Development for a redetermination of the monetary record to reflect the decision above, if necessary.



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Dawn Boucher  
Administrative Law Judge

September 17, 2020  
Decision Dated and Mailed

db/scn