

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PATRICIA A FITCH**  
Claimant

**DAVENPORT COMMUNITY SCH DIST**  
Employer

**APPEAL 20A-UI-10976-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/07/20**  
**Claimant: Appellant (1R)**

Iowa Code § 96.4(5) – Eligibility Between Academic Years or Terms

**STATEMENT OF THE CASE:**

On September 4, 2020, Patricia Fitch (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated August 28, 2020 (reference 01) that denied benefits as of June 7, 2020 based on a finding claimant had reasonable assurance of employment for the next year and was therefore not eligible for benefits between academic years.

A telephone hearing was held on October 27, 2020. The parties were properly notified of the hearing. The claimant participated personally. Davenport Community Sch Dist (employer/respondent) was not available at the number registered at the hearing start time and therefore did not participate.

Exhibit 1 and 2 admitted. Official notice was taken of the administrative record.

**ISSUE:**

Is the claimant eligible for benefits between academic years or terms?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer in 2014. Claimant is still employed there as a full-time cook in charge. This employment runs from the beginning of the academic year in the fall and continuing through the end of the academic year in late spring.

Claimant has returned to work for employer each fall for the last approximately six years. It is assumed in claimant's area of employment that work will be available and the employee will return to work at the end of each summer break, so long as the employee does not quit and the employer has not discharged the employee. Claimant did recently returned to her normal, full-time employment with employer at the beginning of the academic term.

Claimant is employed by another employer, Aunt Hatties, L.L.C., during the summer. In the past, work has been available there to claimant each summer. There was no work available this summer due to the pandemic. This summer employment is separate from claimant's regular, full-time cook position.

The effective date of this claim is June 7, 2020. Claimant has other regular non-educational institution employment wage credits in the base period. Wage credits were reported for Aunt Hatties, L.L.C. in the amount of \$1,482.00 for the first quarter of 2019; \$1,735.00 for the second quarter of 2019, \$4,309.00 for the third quarter of 2019; and \$1,877.00 for the fourth quarter of 2019.

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

For the reasons that follow, the August 28, 2020 (reference 01) that denied benefits as of June 7, 2020 based on a finding claimant had reasonable assurance of employment for the next year and was therefore not eligible for benefits between academic years is **AFFIRMED**.

The monetary eligibility issue based upon wages from non-educational institution employers as delineated in the findings of fact is **REMANDED** to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Iowa Code section 96.4(5)a provides:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.1A, 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. 871-24.52(6) provides:

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 nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

Employer is a nonprofit organization or government entity; claimant performed services in the prior academic year; and she had reasonable assurance she would perform services in the subsequent academic year. Therefore, benefits based on his service with employer cannot be paid to claimant for any week of unemployment which begins during the period between two successive academic years or terms.

However, claimant does have other non-educational institution wage credits in the base period. The question is whether those non-school wage credits are sufficient for claimant to qualify for benefits under Iowa Code 96.4(4). The effective date of this claim is June 7, 2020. Claimant has other regular non-educational institution employment wage credits in the base period. Wage credits were reported for Aunt Hatties, L.L.C. in the amount of \$1,482.00 for the first quarter of 2019; \$1,735.00 for the second quarter of 2019, \$4,309.00 for the third quarter of 2019; and \$1,877.00 for the fourth quarter of 2019.

**DECISION:**

The August 28, 2020 (reference 01) that denied benefits as of June 7, 2020 based on a finding claimant had reasonable assurance of employment for the next year and was therefore not eligible for benefits between academic years is **AFFIRMED**.

**REMAND:**

The monetary eligibility issue based upon wages from non-educational institution employers as delineated in the findings of fact is REMANDED to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

October 29, 2020  
Decision Dated and Mailed

abd/scn

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.