

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ANN E STARRY**  
Claimant

**APPEAL 17R-UI-08584-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMMUNITY SCHOOL  
DISTRICT**  
Employer

**OC: 06/04/17  
Claimant: Respondent (2)**

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Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The emp filed an appeal from the June 26, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon not having been given reasonable assurance for the following school year. The parties were properly notified about the hearing. A telephone hearing was held on September 8, 2017. Claimant participated. Employer participated through human resource specialist Chrissy Michalec.

**ISSUE:**

Does claimant have reasonable assurance of continued employment in the next school term or year?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time bus driver in the 2016-2017 school year. Several years ago the district quit sending contracts to drivers for the following school year and instead assumed drivers would return to work the next term unless they quit or were told of a separation at the end of the school term. Neither occurred with respect to claimant's employment and she remains employed even though she opted not to bid on summer driving routes. 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 section 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.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

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.

In this case, the claimant does not have other non-educational institution wage credits in the base period. The claimant did have reasonable assurance of continued employment for the 2017-2018, school year. As a result, the claimant is not considered unemployed.

**DECISION:**

The June 26, 2017, (reference 01) unemployment insurance decision is reversed. The claimant does have reasonable assurance of returning to work the following academic year or term. Benefits are denied.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs