

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA M RAY
Claimant

APPEAL NO. 15A-UI-08914-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARION INDEPENDENT SCHOOL DIST
Employer

OC: 06/28/15
Claimant: Respondent (4)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Code Section 96.4(5) – Between Academic Terms Disqualification

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 3, 2015, reference 03, decision that allowed benefits to the claimant effective June 28 2015, based on an Agency conclusion that the claimant did not have reasonable assurance of employment with the employer during the upcoming academic year. After due notice was issued, a hearing was held on August 26, 2015. Claimant Rebecca Ray participated. Tammy Albaugh represented the employer. Exhibit One was received into evidence. The administrative law judge took official notice of the Agency's administrative record of wages reported for the claimant, which record indicates that the claimant has requalified for benefits since separating from the employer. The parties waived formal notice on the question of whether the claimant was laid off, whether the claimant was discharged for misconduct, and whether the claimant voluntarily quit without good cause attributable to the employer.

ISSUES

Whether Ms. Ray is disqualified for unemployment insurance benefits based on the between academic terms disqualification set forth at Iowa Code section 96.4(5).

Whether Ms. Ray separated from the employment for a reason that disqualifies her for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Rebecca Ray began her part-time on-call employment with the Marion Independent School District in September 2013 and last performed work for the school district in late April 2014. Ms. Ray worked for the employer as a substitute teacher. To work as a substitute teacher for the district, Ms. Ray was required to register with Grant Wood Area Education Administration so that she could be included in the pool of potential substitutes from which the District would draw when a substitute teacher was needed. Ms. Ray performed all of the work that the District had for her during the 2013-2014 academic year. After the 2013-2014 school year ended, Ms. Ray notified AEA that she did not intend to work as a substitute during the 2014-2015 school year and

wished to remove her name from the substitute pool. Ms. Ray performed no further work for the district.

Ms. Ray subsequently performed work for a new employer, Adtrack Corporation. Ms. Ray established a claim for unemployment insurance benefits that was effective June 28, 2015 and did so in response to a June 25, 2015 layoff from Adtrack. Ms. Ray's alternate base period for purposes of the claim for benefits that was effective June 28, 2015 consists of second, third and fourth quarters of 2014 and the first quarter of 2015. Because Ms. Ray performed work for the Marion Independent Community School District during the second quarter of 2014, the District is amongst Ms. Ray's base period employers. The District is a "reimbursable" base period employer and has not yet been charged for any benefits paid to Ms. Ray.

REASONING AND CONCLUSIONS OF LAW:

Because Ms. Ray has earned ten times her weekly benefit amount from insured work since she separated from the Marion Independent School District, her separation from that employment has no impact on her eligibility for benefits in connection with the claimant year that began for her on June 28, 2015. See Iowa Code section 96.5(1)(g). Ms. Ray is eligible for benefits, provided she meets all other eligibility requirements. Thus, the sole concern is whether the employer's account may be charged for benefits paid to Ms. Ray.

The between academic terms disqualification set forth at Iowa Code section 96.4(5)(a) and (c) provide as follows:

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.

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.

The between academic terms disqualification does not apply to the facts of this case. Ms. Ray performed no work for the employer during the 2014-2015 academic year. The claim for benefits that was effective June 28, 2015 was not prompted by the 2014-2015 academic year coming to an end or the traditional summer break that followed. What matters instead is the nature of the separation. Because Ms. Ray worked as a substitute teacher, she fulfilled the conditions of her employment each time she completed a substitute teaching assignment.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Pursuant to the administrative rule, the administrative law judge concludes that Ms. Ray voluntarily quit the employment without good cause attributable to the employer. The employer's account will not be charged.

DECISION:

The August 3, 2015, reference 03, decision is modified as follows. The claimant voluntarily quit the part-time, on-call employment effective without good cause attributable to the employer. The claimant has requalified for benefits since the separation. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account shall be relieved of liability for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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