

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORY M LEWELLYN

Claimant

APPEAL NO: 09A-UI-10035-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GLENWOOD COMMUNITY SCHOOL DIST

Employer

OC: 05/24/09

Claimant: Appellant (1)

Section 96.4-5 - Reasonable Assurance of Continued Employment with an
Educational Institution

STATEMENT OF THE CASE:

Lory M. Lewellyn (claimant) appealed a representative's July 9, 2009 decision (reference 02) that concluded she was eligible to receive benefits based on wages credits from non-educational employers because she has reasonable assurance of returning to work for Glenwood Community School District (employer) in the 2009/2010 school year. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 29, 2009. The claimant participated in the hearing, with her representative Wendy Houser, a paralegal. Joe Giangreco appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Does the claimant have reasonable assurance of returning to work for the employer, an educational institution, in the 2009/2010 school year?

FINDINGS OF FACT:

The claimant started working for the employer as a Braillest and transcriber on August 21, 1998. Since August 1998, the claimant has worked with a student who is visually impaired. The student was a sixth grader last year.

On May 12, 2009, the employer asked the claimant if she would be available to work for the employer during the next school year. The claimant indicated she was available to again work for the employer during the 2009/2010 school year. The claimant has worked every school year since she began on August 21, 1998. If the employer has a visually impaired student who needs the claimant's services, the employer plans to employ the claimant.

REASONING AND CONCLUSIONS OF LAW:

Benefits based on service in a capacity that is not instructional, research, or a principal administrator for an educational institution shall not be paid to an individual for any week of

unemployment between two successive academic years or terms if the individual performs the services in the first academic year and has reasonable assurance she will provide services in the next academic school year as well. If benefits are denied under this law section, and the claimant is not offered an opportunity to perform the services in the second academic year, the claimant is entitled to retroactive payments for each week she has filed a timely claim. Iowa Code section 96.4-5(b).

Based on the evidence, the claimant has a reasonable assurance of again working for the employer during the 2009/2010 school year. As a result, the wage credits the claimant earned from the employer cannot be used to determine her weekly benefit amount during the summer or between academic years. However, if the employer does not offer the claimant the same or similar job during the 2009/2010 school year, the claimant's benefit could be recalculated and she would be eligible to receive retroactive benefits based on wages she earned from the employer during her base period.

DECISION:

The representative's July 9, 2009 decision (reference 02) is affirmed. The claimant has reasonable assurance of returning to work for the employer during the 2009/2010 school year. Therefore, wages credits she earned from the employer cannot be used to determine her weekly benefit amount during the summer months or between two successive school years. If the employer does not offer the claimant continued employment for the 2009/2010 school year, the claimant would be eligible to receive retroactive benefits based on wages she earned from the employer during her base period for weekly claims she timely submitted.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs