

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALICIA MOLLENHAUER
Claimant

APPEAL NO: 14A-UI-07169-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLLEGE COMMUNITY SCHOOL DISTRICT
Employer

OC: 12/22/13
Claimant: Respondent (2)

Section 96.4-5 – Reasonable Assurance
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 9, 2014, reference 06, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 5, 2014. The claimant participated in the hearing. Jamie Coquyt, Director of Human Resources, participated in the hearing on behalf of the employer. The parties agreed there has been no separation from employment in this case and waived notice on the issue of whether the claimant is between academic terms.

ISSUE:

The issue is whether the claimant received a reasonable assurance for employment in the next academic year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a para-educator for College Community School District during the 2013 - 2014 school year. She was notified she would be retained for the 2014 – 2015 school year by the school district in April 2014. She worked until the school term ended June 6, 2014, and is now between academic years. She will return to her job August 18, 2014.

The claimant has full-time wage credits in her base period from her employment at Way Point Daycare from March 2012 to November 2013 when she left her position to accept her current job with the school district.

The claimant has claimed and received benefits in the amount of \$1,792.00 since her temporary separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did have a reasonable assurance of returning to work the following academic year.

Iowa Code § 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.

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.

The claimant has reasonable assurance of returning to her position with the school district to work the following academic year. The remaining question is whether she is eligible for benefits based on wage credits from her previous full-time employment. The administrative law judge must conclude she is not. While the claimant's previous separation from Way Point was not disqualifying, the reason for her unemployment at this time is because she is between academic terms. Consequently, she is not eligible for benefits because her temporary separation from the school district is not a qualifying separation.

The claimant is overpaid benefits in the amount of \$1,792.00 for the nine weeks ending August 9, 2014.

DECISION:

The July 9, 2014, reference 06, decision is reversed. The claimant has reasonable assurance of returning to work between academic terms. Benefits are denied. The claimant is overpaid benefits in the amount of \$1,792.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs