

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

STEPHANIE A KONRADI
508 HUGHES LN
IDA GROVE IA 51445

BATTLE CREEK – IDA GROVE
COMMUNITY SCHOOL DISTRICT
301 MOOREHEAD ST
IDA GROVE IA 51445

DANIEL D WILLIAMSON
ATTORNEY AT LAW
2ND & MAIN ST
IDA GROVE IA 51445

Appeal Number: 04A-UI-08908-L
OC 05-23-04 R 01
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 10, 2004, reference 02, decision that found claimant had a reasonable assurance of continued work and denied benefits. After due notice was issued, a hearing was held on October 13, 2004 in Storm Lake, Iowa. The claimant did participate and was represented by Daniel Williamson, Attorney at Law. The employer did participate through Russ Freeman, Superintendent. Claimant's Exhibits A through C were received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an associate in the CCC Lab for reading and math for the Ida Grove

Community School District during the 2003-2004 school year. A contract was offered for the 2004-2005 school year. The school year concluded on Wednesday, May 26, 2004. On Monday, May 17 employer notified her that her position would be eliminated due to budget concerns, but she would have first opportunity to accept any other openings. On Friday, June 4, 2004 she was offered a position as an aide, which she verbally accepted. The signed contract was returned later. The aide position was at a higher rate of pay than she had received before and the number of hours was the same.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not have reasonable assurance of returning to work the following academic year for a one-week period ending June 5, 2004. Thereafter, she had reasonable assurance of employment for the next term.

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.

871 IAC 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.

Iowa Code Section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant did not have reasonable assurance of continued employment for the 2004-2005 school year until June 4, 2004. As a result, the claimant is considered unemployed only for the one week between ending June 5, 2004. Inasmuch as claimant was employed the majority of the workweek ending May 29, 2004 she was not considered unemployed for that entire week and her reported wages rendered her ineligible for benefits. Because the code section specifically refers to "any week of unemployment" it is appropriate to deny benefits as of the time when she did obtain an offer/contract and had a reasonable assurance from employer that she would be employed the next term effective June 4, 2004.

DECISION:

The August 10, 2004, reference 02 decision is modified in favor of the appellant. The claimant did not have reasonable assurance for the one week from May 27 through June 4, 2004 but was given a contract for returning to work the following academic year as of June 4, 2004. Benefits are allowed for the week ending June 5, 2004 and are withheld thereafter.

dml/kjf