

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

KATHLEEN M KLOCKE
6945 HURSTVILLE RD
MAQUOKETA IA 52060

MAQUOKETA COMMUNITY SCHOOL DIST
c/o SECRETARY
612 S VERMONT
MAQUOKETA IA 52060

Appeal Number: 04A-UI-08297-DWT
OC: 05/23/04 R: 04
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 are 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 – Still Employed for Educational Institution

STATEMENT OF THE CASE:

Kathleen M. Klocke (claimant) appealed a representative's July 23, 2004 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits as of May 30, 2004 because she has a reasonable assurance of returning to work for an educational institution, Maquoketa Community School District (employer), in the 2004/2005 school year. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2004. The claimant participated in the hearing. Barb McKuen appeared on behalf of the employer. 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 an educational institution for the 2004/2005 school year?

FINDINGS OF FACT:

The claimant worked as a school nurse for the employer during the 2003-2004 school year. She had a contract for this school year. As of May 10, 2004, the employer had not received a grant to pay the claimant or anyone else to work as a nurse for the 2004/2005 school year. As a result of budget restraints, the employer told the claimant on May 10, 2004, her contract would not be renewed for the next school year.

The claimant established her claim for unemployment insurance benefits during the week of May 23, 2004. Her last day of work was May 28, 2004. In early June the employer learned grant money had been approved and the employer would be able to contract for a school nurse. On June 14, the employer sent the claimant a contract to work as a school nurse for the 2004/2005 school year. The claimant returned the signed contract on July 6, 2004.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not eligible to receive unemployment insurance benefits during academic school years when she performs services for an educational institution and has a reasonable assurance of working for an educational institution the following academic school year. Iowa Code §96.4-5(b). When an educational institution provides information that a claimant has reasonable assurance of returning to work for the educational institution, the effective date of the disqualification can be determined as the time of the educational institution's offer to return to work if a claimant is in a reporting status. 871 IAC 24.25(2)(b).

Since the claimant worked as a nurse for an educational institution, Iowa Code §96.4-5 does not allow her to receive benefits between academic school years if she has a reasonable assurance of returning to work for an educational institution. When the claimant initially filed her claim for benefits, she did not have any assurance she would be working for the employer during the 2004/2005 school year. The claimant did not know she could return to work for the employer until the week of June 13. Therefore, as of June 13, 2004, the claimant is not eligible to receive benefits because as of this week she had a reasonable assurance of returning to work for the employer as a nurse.

DECISION:

The representative's July 23, 2004 decision (reference 02) is modified in the claimant's favor. The claimant is denied benefits as of June 13, 2004, not May 30, 2004. The claimant is not eligible to receive benefits as of June 13, 2004 because she worked for an educational institution during the 2003/2004 school year and has a reasonable assurance as of the week of June 13 to return to work for the employer as a school nurse. This ineligibility continues until the claimant reopens her claim and establishes her eligibility to receive unemployment insurance benefits.

dlw/pjs