

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIA M STEWART
Claimant

APPEAL NO. 21A-UI-05797-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DALLAS CENTER – GRIMES COMMUNITY
SCHOOL DISTRICT**
Employer

OC: 04/12/20
Claimant: Appellant (1R)

Iowa Code Section 96.4(5) – Between Academic Terms Disqualification

STATEMENT OF THE CASE:

The claimant, Julia Stewart, filed a timely appeal from the February 17, 2021, reference 03, decision that denied benefits effective June 7, 2020, based on the between academic terms disqualification provision set forth at Iowa Code Section 96.4(5). After due notice was issued, a hearing was held on April 30, 2021. Claimant participated personally and was represented by attorney Nadine Stille. Michelle Wearmouth represented the employer. There were three appeal numbers set for a consolidated hearing: 21A-UI-057896-JTT, 21A-UI-05797-JTT and 21A-UI-05798-JTT. Exhibits 1 through 5 and A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX, WAGE-A and the April 15, 2020 application for Pandemic Unemployment Assistance.

ISSUE:

Whether the claimant is disqualified for benefits for the period beginning June 7, 2020, based on the between academic terms disqualification provision set forth at Iowa Code Section 96.4(5).

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant commenced employment with Dallas Center – Grimes Community School District as a part-time, on-call substitute teacher in April 2019. The claimant has only performed work for the employer as a part-time, on-call substitute teacher. As a substitute teacher, the claimant was not guaranteed work hours. The employer would notify the claimant when work was available and the claimant would decide whether she wished to accept the work. During the 2019-2020 academic year, the claimant worked in a series of one-day substitute teaching assignments. The claimant most recently worked for the employer on February 28, 2020.

The District discontinued in-person classes effective March 23, 2020 to slow community spread of COVID-19. Prior to the closure, the claimant had been watching the news and had decided to discontinue substitute teaching until the COVID-19 pandemic subsided. The claimant had not agreed to work any substitute teaching assignments for the period beginning March 23, 2020.

The employer continued to be without need for the substitute teachers through the June 4, 2020 scheduled end of the school year. The claimant's on-call work for the District did not include work during the traditional summer break between academic years.

On June 4, 2020, the District sent the claimant an electronic Substitute Annual Availability form that indicated the claimant would remain on the active substitute list for the 2020-2021 and requested that the claimant mark and sign the form indicate whether she wished to be considered for further substitute work. On June 4, 2020, the claimant marked, signed, and returned the form to indicate that she was interested in returning for additional substitute teaching work.

The 2020-2021 academic year began on August 27, 2020. Between August 28, 2020 and September 21, 2020, the employer made eight calls to the claimant attempting to provide the claimant with substitute teaching work. The claimant did not answer any of the calls and did not accept any substitute teaching assignments. On September 22, 2020, the employer was able to make contact with the claimant and the claimant advised she would not be subbing at all until the COVID-19 pandemic subsided.

The claimant established an original claim for benefits that was effective April 12, 2020. The base period for the claim consists of the four quarters of 2019. Dallas Center – Grimes Community School District is the sole base period employer. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$132.00. The claimant made weekly claims for each of the weeks between April 12, 2020 and October 10, 2021. The claimant received regular benefits for each of the weeks between April 12, 2020 and July 4, 2020, at which time she exhausted regular benefits. The claimant then received 13 weeks of Pandemic Emergency Unemployment Compensation (PEUC) for the weeks between July 5, 2020 and October 3, 2021, at which time she exhausted PEUC benefits. The claimant also received Federal Pandemic Unemployment Compensation (FPUC) benefits for each of the weeks between April 12, 2020 and July 25, 2020 and received Lost Wages Assistance Payments (LWAP) for each of the weeks between July 26, 2020 and September 5, 2020. During the period of April 1, 2020 through September 5, 2020, Iowa Workforce Development waived the work search requirement. Effective September 6, 2020, IWD re-imposed the work search requirement. The claimant did not look for other employment.

The claimant had also submitted an application for Pandemic Unemployment Assistance (PUA) benefits on April 15, 2020.

REASONING AND CONCLUSIONS OF LAW:

The between academic terms disqualification set forth at Iowa Code section 96.4(5)(a) and (c) provides 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.

...

871 IAC 24.51(1) defines "educational institution" as follows:

Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

871 IAC 24.51(6) defines "reasonable assurance" as follows:

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 is disqualified for benefits for the period between June 7, 2020 and August 29, 2020, based on the between academic terms disqualification. The claimant worked as an on-call, substitute instructor for the District during the 2019-2020 academic year and had reasonable assurance effective June 4, 2020 of continued employment in a similar capacity during the 2020-2021 academic year. The employer indeed attempted to provide the claimant with the similar employment at the start of the academic year.

DECISION:

The February 17, 2021, reference 03, decision is affirmed. The claimant is disqualified for benefits for the period between June 7, 2020 and August 29, 2020, based on the between academic terms disqualification set forth at Iowa Code section 96.4(5).

This matter is **remanded** to the Benefits Bureau for further action on the claimant's application for PUA benefits as the Benefits Bureau deems appropriate.



James E. Timberland
Administrative Law Judge

August 31, 2021
Decision Dated and Mailed

jet/mh