

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEVERLY D SCHRAMM
Claimant

APPEAL NO. 11A-UCFE-00021-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST
Employer

OC: 02/24/08
Claimant: Appellant (5)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 21, 2011, reference 07, which removed wages with Des Moines Schools from her claim from benefits. After due notice, a telephone conference hearing was scheduled for and held on May 31, 2011. Claimant participated personally. Employer did not participate.

ISSUE:

The issue in this matter is whether employer gave claimant reasonable assurance of continued employment between academic years.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant was employed as a substitute teacher for the Council Bluff and/or Des Moines School Districts beginning the fall of 2008 school year. She had reasonable assurance of employment the next school year, and did in fact receive work during the next school year at the educational institution.

REASONING AND CONCLUSIONS OF LAW:

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.

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.

The claimant did and does have reasonable assurance of continued employment for the school year in question. The employment already has occurred for the school year in question. As a result, the claimant is not considered unemployed from the educational employer, and the wages are removed from her claim.

DECISION:

The decision of the representative dated April 21, 2011, reference 01 is affirmed as modified. Wages earned at the educational institution from October 1, 2008 until April 12, 2009 will be removed from the claim.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/css