

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEAN SCHNEIDERS**

Claimant

**APPEAL NO: 13A-UI-11213-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BB'S PRESCHOOL AND CHILD CARE INC**

Employer

**OC: 09/01/13**

**Claimant: Respondent (1-R)**

Section 96.4-5 – Reasonable Assurance

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 26, 2013, reference 01 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 October 30, 2013. The claimant sent a written statement in lieu of participation in the hearing. Brenda Barto, Owner/Director, participated in the hearing on behalf of the employer.

**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 full-time certified teacher for BB's Preschool and Child Care during the 2012 - 2013 school year. She was not offered a contract for the 2013 - 2014 school year because she could not deliver an appropriate curriculum for the three and four-year-old children she was teaching. Her inability to do so resulted in the children appearing deficient in several areas and her Gold Assessment came back showing several children were in need of services, which was not actually the case. The employer made several attempts to work with the claimant on her curriculum but despite repeated redirection and modeling the claimant failed to change her behavior or methods. Consequently, the employer did not offer her a contract for the 2013-2014 school year.

There are issues regarding the claimant's separation from employment that have not yet been heard and adjudicated by the Claims Section of Iowa Workforce Development.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not have a reasonable assurance of returning to work the following academic year.

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.

The employer notified the claimant in March 2013 it would not be offering her a new contract for the 2013-2014 school year. While it may have had sufficient grounds to make that decision, the issue in this case is solely whether the claimant had reasonable assurance of employment with this employer during the following academic year. In this case, it is clear she did not. Therefore, benefits must be allowed with respect to the issue of reasonable assurance.

The issue of whether the claimant was discharged for misconduct is remanded to the Claims Section for an initial investigation and determination.

**DECISION:**

The September 26, 2013, reference 01, decision is affirmed. The claimant did not have reasonable assurance of employment during the following academic year. Benefits are allowed, provided the claimant is otherwise eligible. The issue of whether the claimant was discharged for misconduct is remanded to the Claims Section for an initial investigation and determination.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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