

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SONNY E BLANCHARD
Claimant

APPEAL NO. 13A-UI-08377-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CATHOLIC CONFERENCE
Employer

OC: 06/09/13
Claimant: Appellant (2)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 16, 2013, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 21, 2013. Claimant participated personally. Employer participated by Paul Jahnke, Hearing Representative with witness Cindy McCarthy, Business Manager. Claimant responded to the hearing notice and did not participate as he was not available when called. Exhibit One was admitted into evidence

Claimant called after the hearing was over to request participation. Claimant's cell phone battery went dead and he could not take the call. Claimant called well after the hearing ended. Claimant provided two telephone numbers and was not available at either.

ISSUE:

The issue in this matter is whether employer gave claimant reasonable assurance of continued employment for the upcoming academic year.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: claimant was employed as an on-call part-time bus driver for the Newman Community School District during the 2012 – 2013 school year. Claimant was still on the substitute driver list for the upcoming school year. Employer has not offered claimant any work since the second quarter of 2012. The failure to offer any work indicates that claimant is unemployed. Claimant is also currently not receiving any work from the school district.

REASONING AND CONCLUSIONS OF LAW:

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 claimant did not have reasonable assurance of continued employment for the 2013-2014 school year. As a result, the claimant is considered unemployed with this school district.

DECISION:

The decision of the representative dated July 16, 2013, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs