

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY LOU ORTIZ

Claimant

APPEAL NO: 11A-UI-11054-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RAPIDS COMM SCHOOL DIST

Employer

OC: 07/10/11

Claimant: Appellant (1)

Iowa Code § 96.4(5)b – Reasonable Assurance

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 12, 2011 determination (reference 01) that held the claimant ineligible to receive benefits as of July 10, 2011, because she had a reasonable assurance of working for the employer in the 2011/2012 school year. The claimant participated in the hearing. Rachel Knapp appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of July 10, 2011.

ISSUE:

Is the claimant eligible to receive benefits as of July 10, 2011, if she has reasonable assurance of again working for the employer during the 2011-2012 school year?

FINDINGS OF FACT:

The claimant started working for the employer, an educational institution on October 1, 2010. The claimant worked as a para-educator for one elementary special education student. When the 2010-2011 school year ended, the claimant understood she would have this same job with the employer in the 2011-2012 school year.

The claimant established a new benefit year the week of July 10, 2011. The employer is essentially the only base period employer. The claimant returned to work as a para-educator for the employer in the 2011-2012 school year.

REASONING AND CONCLUSIONS OF LAW:

Benefits based on service in any other capacity (not instructional, research, or principal administrative) for an education institution, including service in or provided to or on behalf of an educational institution shall not be paid for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the service in the first academic year and has reasonable assurance of performing services in a second academic year. Iowa Code § 96.4(5)b. This law covers cooks, custodians and childcare providers, associates and pharmacy technicians. Iowa Code § 96.4(5)a applies to teachers and

administrators. Iowa Code § 96.4(5)b allows for retroactive benefits for the summer months if the school does not allow the employee to return to work in the next school year.

At the end of the 2010-2011 school year, the claimant understood the employer wanted her to continue her job as a para-educator for the 2011-2012 school year. The evidence establishes the claimant had reasonable assurance of returning to the work for the employer and did. As a result, she is not eligible to receive benefits as of July 10, 2011. Claimants with reasonable assurance of returning to work for an educational institution are not eligible to receive benefits during the period between two academic school years.

The claimant understood she would continue receiving Emergency Unemployment Compensation (EUC) benefits on an old claim year during the summer months or between academic school years. The claim year she had been receiving EUC benefits was established during the week of July 8, 2008. Her maximum weekly benefit amount on the July 2008 claim was \$361.00. When the claimant established a new benefit year during the week of July 10, 2011, her maximum weekly benefit amount is \$277.00. The laws for Emergency Unemployment Compensation benefits state that effective July 25, 2010, if the EUC payment on the old claim is \$100.00 or 25 percent more than the weekly benefits amount on the new claim, the claimant will continue to be paid EUC benefits. Since there is not a \$100.00 or a 25 percent difference between the weekly benefit amount in the two claim years, the claimant is not eligible to receive Emergency Compensation benefits under the claim year she established in July 2008.

DECISION:

The representative's August 12, 2011 determination (reference 01) is affirmed. As of July 10, 2011, the claimant is not eligible to receive benefits because she had reasonable assurance of returning to work for the employer, an educational institution for the 2011-2012 school year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css