

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KERRY K CROWLEY
Claimant

APPEAL NO: 11A-UI-09282-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CATHOLIC CONFERENCE
Employer

**OC: 05/29/11
Claimant: Appellant (4)**

Section 96.4-5-b – Reasonable Assurance/Educational Institution

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 11, 2011, reference 02 ,that held she was ineligible for benefits effective May 29, 2011, because she had reasonable assurance of continuing employment between academic terms or years. A telephone hearing was held on August 2, 2011. The claimant participated. Paul Jahnke, Representative, and Matt Kolar, Business Manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether claimant has a reasonable assurance of employment between academic terms or years.

FINDINGS OF FACT:

The administrative law judge having considered the stipulation of evidence in the record, finds: The claimant worked in the employer daycare center for St. Paul the Apostle Catholic School during the summer of 2010. She was not offered the same position to work for the employer during the summer of 2011. She will be returning to work for the employer in the daycare center on August 10. The employer is now withdrawing its protest to claimant's May 29, 2011 unemployment claim, because it would not have done so if it had knowledge of the stipulated facts at the time of the claim.

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.

The administrative law judge concludes that the claimant is eligible for unemployment benefits effective May 29, 2011, as she did not have a reasonable assurance of employment with the same employer (an educational institution) between academic terms. Claimant is disqualified from receiving benefits upon her return to employment on August 10, 2011.

The claimant and employer stipulated to the facts that claimant did not have a reasonable assurance of employer during the summer of 2011 in the daycare center that makes her eligible for benefits during that period. The claimant becomes ineligible for benefits upon her return to employment with the employer on August 10, 2011.

DECISION:

The department decision dated July 11, 2011, reference 02, is modified in favor of the claimant. The claimant is eligible for benefits effective May 29, 2011 to August 10, 2011, because she did not have reasonable assurance of employment with the employer.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css