

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRAH A WADDELL

Claimant

APPEAL NO. 08A-UI-06235-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX CITY COMMUNITY SCHOOL DIST

Employer

**OC: 06/01/08 R: 01
Claimant: Appellant (2)**

Section 96.4(5)b – School Employment

STATEMENT OF THE CASE:

Debrah Waddell filed an appeal from a representative's decision dated July 3, 2008, reference 01, which denied benefits effective June 1, 2008 on a finding that she was a school employee claiming benefits during a normal vacation period. After due notice was issued, a hearing was held by telephone on July 22, 2008. Ms. Waddell participated personally. The employer responded to the notice of hearing, but the designated witness was not available at the number provided at the scheduled time of the hearing. The employer did not return a call to the Appeals Bureau until approximately 3:23 p.m., after the hearing record was closed at 3:19 p.m. Because the employer did not have good cause for not being available at the scheduled time, the administrative law judge declined to reopen the hearing record.

ISSUE:

At issue in this matter is whether Ms. Waddell is eligible to receive job insurance benefits on her claim filed effective June 1, 2008.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Waddell has been employed by the Sioux City Community School District since 1999. She has always been a substitute worker, either in the classroom or the cafeteria. On September 24, 2007, she began working 22 hours per week for Woodbury Community Action Program (CAP) in the Head Start program. The CAP agency also provides other social programs, such as a food bank and energy assistance. Ms. Waddell did not work for CAP on Fridays and, therefore, continued subbing for the school district on her day off.

Ms. Waddell last worked for CAP on May 30, 2008, as she does not work during the summer months. She worked for the school district approximately two times each month between September of 2007 and when the school year ended on May 27, 2008. The school district usually sends a letter to substitutes in July or August of each year indicating whether the district intends to utilize their services during the upcoming school term. As of the date of hearing

herein, Ms. Waddell had not received such a letter from the school district. She intends to return to her CAP job on August 18, 2008.

REASONING AND CONCLUSIONS OF LAW:

Ms. Waddell filed a claim for job insurance benefits effective June 1, 2008, because she was laid off for the summer from her regular job with CAP. The base period of her claim also contains wage credits earned with the school district. Wage credits earned in school employment may not be used on a claim filed between academic terms if the individual performed services in the prior term and has reasonable assurance of continued employment in the upcoming term. See Iowa Code section 96.4(5)b. Ms. Waddell's employment with CAP is not school employment within the meaning of the law. Although she works with Head Start, the program is operated by a non-profit organization whose primary function is philanthropic or public assistance purposes. Therefore, the CAP is not an educational institution within the meaning of the law. See 871 IAC 24.52(7). As such, Ms. Waddell's employment with CAP does not impact her eligibility for job insurance benefits during the summer layoff.

The school district is an educational institution within the meaning of section 96.4(5)b and Ms. Waddell did perform services for the district during the 2007-2008 academic term. She is only entitled to benefits during the summer break if the district failed to provide her with reasonable assurance of continued employment during the 2008-2009 term. The term "reasonable assurance" means a written, verbal, or implied agreement that an employee will perform services in the same or similar capacity during the next academic term. 871 IAC 24.51(6). To constitute reasonable assurance, the individual must be notified of the reemployment. In the case at hand, Ms. Waddell has not been notified by the school district that her services will be utilized during the 2008-2009 term. As such, she has no reasonable assurance of continued employment by the school district as a substitute. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated July 3, 2008, reference 01, is hereby reversed. Ms. Waddell performed services for the Sioux City Community School District during the 2007-2008 school year but does not have reasonable assurance of continue employment with the district during the 2008-2009 school year. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw