

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLYDE J HOOVER**  
Claimant

**APPEAL NO. 08A-UI-07462-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMM SCHOOL DIST**  
Employer

**OC: 03/30/2008 R: 03  
Claimant: Appellant (1)**

Section 96.4-5-b – School Employee Between Academic Terms

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 23, 2008, reference 06, that concluded the claimant would not receive benefits based on the wages paid by the Cedar Rapids School District between academic years but he was still eligible to receive benefits based on wages from his other employers. A telephone hearing was held on September 2, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Jean Milne participated in the hearing on behalf of the employer. Exhibit A was submitted by the claimant by fax after the hearing and is admitted into evidence with the agreement of the parties.

Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant's base-period wages were as follows:

Employer	4th Quarter 2006	1st Quarter 2007	2ndQuarter 2007	3rd Quarter 2007
College Comm Sch Dist	2553	2861	3520	921
Kirkwood College			320	
Cedar Valley Transit				1286
Cedar Rapids Sch Dist				1041
<b>Total</b>	<b>2553</b>	<b>2861</b>	<b>3840</b>	<b>3248</b>

Official notice will also be taken of decisions by Administrative Law Judge Dan Anderson and the Employment Appeal Board in appeal 08A-UI-04396-AT and 08B-UI-04396 that concluded "as of the date of May 21, 2008, Mr. Hoover had not received reasonable assurance of continued employment for the upcoming academic year." Judge Anderson further directed "Should Mr. Hoover receive reasonable assurance from the district, this fact should be conveyed promptly to the local Workforce Development Center." If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

**ISSUE:**

Is the claimant subject to the unemployment insurance law's "between terms" provision that denies benefits based on wages from an educational institution to certain educational employees between school terms?

**FINDINGS OF FACT:**

The employer is a school district in Cedar Rapids, Iowa. The claimant began working as a transportation driver for the school district in August 2007. He was employed during the 2007-2008 school year, which ended June 6, 2008.

On May 30, 2008, the employer gave the claimant a written offer of job assignment as a transportation driver for the 2008-2009 school year under the same terms and conditions as his employment in 2007-2008. The claimant accepted the offer of job assignment by signing the written offer. After signing the offer, the claimant had reasonable assurance from the employer that he would have a job when school started in the fall of 2008.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 30, 2008. He filed an additional claim for benefits after the school year ended effective June 8, 2008. His base period wages for his claim were as follows:

Employer	4th Quarter 2006	1st Quarter 2007	2ndQuarter 2007	3rd Quarter 2007
College Comm Sch Dist	2553.48	2861.30	3520.73	921.65
Kirkwood College			320.00	
Cedar Valley Transit				1041.90
Cedar Rapids Sch Dist				1286.91
Total	2553.48	2861.30	3840.73	3250.46

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is subject to the unemployment insurance law's "between terms" provision?

Iowa Code § 96.4-5-b provides that a person employed by an educational institution in other than an instructional or administrative capacity during one academic year or term who has reasonable assurance of employment in the same capacity in the next academic year or term is not eligible for benefits based on such employment during the time between academic years or terms. Educational employees who are not teachers or administrators can receive retroactive benefits if the school fails to allow the employee to return to work at the beginning the next school year. The unemployment insurance rules in 871 IAC 24.51(6) state that "reasonable assurance" means a "written, verbal, or implied agreement that the employee will perform services in the same or similar capacity" during the next academic year or term. The rule specifically says: "It need not be a formal written contract" as long as the employee is "notified of such reemployment." The claimant argued that the issue had been decided by the administrative law judge and Employment Appeal Board, but the decisions only conclude that

the claimant did not have reasonable assurance as of May 21, 2008, and invited the employer to revisit the issue if reasonable assurance was provided later.

In this case, the claimant is an employee of an educational institution. After signing the offer, he had reasonable assurance from the employer that he would have a job when school started in the fall of 2008. The law does not require a written contract or unconditional guarantee of reemployment. His unemployment insurance benefits would be based in part on the \$1,286.91 in wages paid by the employer during the third quarter of 2007.

Based on the unemployment insurance law, the claimant cannot draw benefits between school years based on the \$1,286.91 in wages from paid by the employer. These wages must be removed in calculating the claimant's benefits between school years. He is still eligible for benefits over the summer months based on his other employment.

In practical terms, this decision has little effect on the claimant. His weekly benefit amount of \$174.00, which is based on his high quarter wages, is unchanged. The only possible effect of the decision would be a reduction in the maximum benefit amount the claimant could draw during his benefit year from \$4,168.66 to \$3,739.69 since Iowa Code 96.3-5 provides that maximum benefit amount is based on one-third of total base period wages. The claimant is back at work and has not drawn half of his maximum benefits yet.

**DECISION:**

The unemployment insurance decision dated July 23, 2008, reference 06, is affirmed. The claimant cannot draw benefits between school years based on the \$1,286.91 in wages from paid by the employer. These wages must be removed in calculating the claimant's benefits between school years. He is still eligible for benefits over the summer months based on his other employment. The employer will not be charged for benefits paid to the claimant between school years.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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