

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA J WUERTZER
Claimant

APPEAL NO. 08A-UI-01713-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE COMMUNITY SCHOOL DIST
Employer

**OC: 01/20/08 R: 04
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Laura Wuertzer filed an appeal from a representative's decision dated February 15, 2008, reference 01, which denied benefits based on her separation from Dubuque Community School District. After due notice was issued, a hearing was held by telephone on March 10, 2008. Ms. Wuertzer participated personally. The employer participated by Amy Vander Meulen, Administrative Assistant.

ISSUE:

At issue in this matter is whether Ms. Wuertzer was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Wuertzer began working for the school district on April 1, 2007 as a substitute lunch server. She worked a total of 20 days before the school year ended on June 6, 2007. No work was available for her during the summer school recess. Ms. Wuertzer did not have any conversations with the employer about returning as a substitute during the 2007-08 school year.

It is the employer's usual practice to have the food service manager contact substitutes before the start of a new school year to confirm whether they want to remain on the substitute roster. When Ms. Wuertzer was contacted immediately before the 2007-08 school year began, she indicated she was no longer available to work as a substitute because of her school schedule.

Workforce Development has allowed Ms. Wuertzer Division Approved Training (DAT) for the period May 13 through August 11, 2007 and August 12 through December 22, 2007.

REASONING AND CONCLUSIONS OF LAW:

Ms. Wuertzer did not quit her employment with the school district in May of 2007. She worked until her services were no longer needed. She was not at that time given any reasonable

assurance of continued employment with the school district during the upcoming academic year. The employer's offer of continued employment was delayed until September of 2007, the beginning of the school year. Where a delayed offer of work is declined by a school employee, the individual is subject to disqualification based on the "between terms" provisions of Iowa Code section 96.4(5). See 871 IAC 24.52(12). When Ms. Wuertzer was offered continued work in September, the claim was no longer one for benefits between academic terms.

The administrative law judge has also considered whether Ms. Wuertzer should be disqualified based on a refusal of work in September of 2007. She was on DAT at the time the food service manager contacted her about continued work, having been approved for the period from August 12 through December 22, 2007. An individual who is on DAT may not be disqualified from benefits by the application of Iowa Code section 96.4(3) relating to availability for work or Iowa Code section 96.5(3)a relating to refusal of work. See Iowa Code section 96.4(6)a. No employer's account is charged when an individual is receiving DAT.

DECISION:

The representative's decision dated February 15, 2008, reference 01, is hereby reversed. Ms. Wuertzer was separated from the school district for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs