

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURA J MUELLER
Claimant

LUTHER COLLEGE
Employer

APPEAL 16A-UI-07143-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/29/16
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 21, 2016, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a telephone conference hearing was held on July 15, 2016. Claimant participated. Employer participated through associate director of human resources Matthew Bills. Claimant's Exhibit A was received.

ISSUE:

Does the claimant have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a visiting assistant professor for Luther College during the 2015 – 2016 school year. Claimant has no other regular non-educational institution employment wage credits in the base period.

On March 13 or 14, 2016, claimant received an offer for a three-year appointment as a member of the faculty of Gustavus Adolphus College. The appointment is at-will and can be terminated at any time based on the needs of the institution. Claimant accepted this offer.

On March 15, 2016, employer offered claimant an appointment as a visiting professor for the 2016-2017 school year, contingent upon sufficient enrollment. Claimant declined the offer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant does have reasonable assurance of returning to work the following academic term or year.

Iowa Code § 96.4(5)a 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 § 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:

a. Benefits based on service in an instructional, research, or principal administrative capacity in 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 during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

Claimant argues that she had does not have reasonable assurance of continued employment because her new employment is at will and is not guaranteed. As noted above, a formal written contract is not required. Claimant has been offered and accepted an appointment as a faculty member of Gustavus Adolphus during the 2016-2017 school year. In the case that this appointment does not come to fruition, the legislature explicitly addresses that scenario in Iowa Code § 96.4(5)b. It 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 § 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.

In this situation, claimant has been given reasonable assurance of continued employment at an education institution and is not entitled to benefits between academic terms as she is not considered to be unemployed. In the case that claimant's new appointment does not come to fruition, she will be entitled to retroactive benefits for each week for which she filed a timely claim for benefits. However, at this time claimant is not considered eligible for benefits as no indication has been made she will not begin her employment for the 2016-2017 school year.

DECISION:

The June 21, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant does have reasonable assurance of returning to work the following academic year or term. Benefits are denied.

Christine A. Louis
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Decision Dated and Mailed

cal/pjs