

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

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**Appeal Number: 04A-UI-07931-SWT
OC: 06/20/04 R: 03
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-5-a – School Employee Between Terms

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 15, 2004, reference 02, that concluded the claimant was ineligible for benefits because he was a school employee between academic terms and had reasonable assurance of employment in the next term. A telephone hearing was held on August 12, 2004. Proper notice of the hearing was given to the parties. The claimant participated in the hearing with a witness, Dick Reynold. Bonny Campbell participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is an educational institution in Ottumwa, Iowa. The claimant has worked for the employer as a driving instructor in the commercial driver training program since 1994. The

claimant's primary job is to provide in-the-truck training to students. He is also expected to make sure the truck is properly maintained.

The commercial driver training program lasts six weeks and the program runs back to back classes, except for two weeks over the Christmas-New Year period and two weeks at the end of June and beginning of July.

The claimant has always worked during the two-week breaks, providing additional instruction to students who failed their commercial driving test and making sure the truck was serviced.

After June 20, 2004, the claimant was off work because the employer had a new lead instructor and the lead instructor had not approved the claimant to work during the break. The claimant returned to work after the two weeks off.

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 that denies benefits to certain educational employees between school terms.

Iowa Code Section 96.4-5-a provides that persons employed by an educational institution in an instructional or administrative capacity during one academic year or term who have reasonable assurance of employment in the same capacity in the next academic year or term are not eligible for benefits based on such employment during the time between academic years or terms.

In this case, the claimant is an employee of an educational institution. His unemployment insurance benefits would be based exclusively on his wages from his school employment. The unemployment insurance rules, however, provide that a education institution employee who works on a 12-month, year-round basis whose employment is terminated due to layoff before the 12-month period is completed is not subject to the "between-terms" disqualification. 871 IAC 24.52(5). The claimant has always worked year-round in the past, including the two-week breaks. Therefore, he is not subject to disqualification

DECISION:

The unemployment insurance decision dated July 15, 2004, reference 02, is reversed. The claimant is eligible to receive unemployment insurance benefits during the two-week break that started on June 21, 2004, provided he is otherwise eligible.

saw/b