

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZABETH A BUSTA**  
Claimant

**APPEAL NO. 09A-UI-10044-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TURKEY VALLEY COMMUNITY SCH DIST**  
Employer

**Original Claim: 05/31/09  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 8, 2009, reference 01, that concluded the claimant was ineligible for benefits because she was a school employee between academic years and had reasonable assurance of employment in the next school year. A telephone hearing was held on July 29, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Janice Meyers participated in the hearing on behalf of the employer.

**ISSUE:**

Is the claimant subject to the unemployment insurance law's "between terms" provision that denies benefits to certain educational employees between school terms?

**FINDINGS OF FACT:**

The employer is an educational institution in Jackson Junction, Iowa. The claimant worked on-call, as-needed as a substitute kitchen worker during the 2008-09 school year. She was only called to work once in October and once in November for wages totaling \$120.

Prior to working for the employer, the claimant had worked full-time for three years for Soy Basic and was drawing unemployment insurance benefits after she was laid off. The claimant had also worked for The Pub from December 2008 through March 15, 2009, and was laid off.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 31, 2009. At that time, she was between school terms. At the point the claimant applied for benefits, she had a reasonable assurance of working in the same substitute job for the employer for the 2009-10 school year. The claimant has sufficient wages from her other employers to qualify for unemployment insurance benefits.

**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 § 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.

In this case, the claimant is an employee of an educational institution. Her unemployment insurance benefits are not based exclusively on her wages from her school employment. In fact, she has more than enough wages from her other employer to qualify for benefits. The claimant is eligible for benefits between school terms based on her other wages. The wages from her school employment should be excluded from her base period.

**DECISION:**

The unemployment insurance decision dated July 8, 2009, reference 01, is reversed. The claimant is eligible for benefits between school terms based on her other wages.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw