

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JO NOWAK THOMPSON
Claimant

APPEAL NO: 10A-UI-11132-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOUNT VERNON COMM SCHOOL DIST
Employer

**OC: 06-06-10
Claimant: Appellant (5)**

Iowa Code Section 96.4(5) - Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 29, 2010, reference 03, decision that denied benefits because she had a reasonable assurance of returning to work for the school district the following school year. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 22, 2010. The claimant participated in the hearing with Attorney Jay Hammond. Matt Burke, School Board Secretary/Treasurer and Dr. Pamela Ewell, Superintendent, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether claimant had reasonable assurance of continued employment during the next school year or term

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time early childhood teacher for the Mount Vernon Community School District during the 2009-2010 school year. She had the option of being paid for nine months or 12 months and elected to be paid 12 months. The claimant's contract paid her from September 21, 2009 through August 20, 2010. She was notified April 23, 2010, that her contract would be terminated at the end of the 2009-2010 contract year due to a reduction of force. The budget cuts turned out to be less drastic than first anticipated as the State added more money to the school district's budget and the employer was able to offer the claimant a contract which she signed July 6, 2010.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not have reasonable assurance of returning to work the following academic year between April 23, 2010 and July 6, 2010.

Iowa Code section 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 section 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.

871 IAC 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.

The claimant did not have reasonable assurance of continued employment for the 2010-2011 school year between April 23, 2010 and July 6, 2010. As a result, the claimant is considered unemployed between the last day of school which was June 4, 2010, and the date she actually signed the new contract which was July 6, 2010, and would be eligible for unemployment insurance benefits but for the fact she was being paid her salary during that time period because she elected to receive her salary on the 12-month plan. Consequently, benefits must be denied.

DECISION:

The unemployment insurance decision dated July 29, 2010, reference 03, is modified with no effect. The claimant did not have reasonable assurance of returning to work between April 23, 2010 and July 6, 2010, when she did sign her new contract, but was paid her salary during that time period making her ineligible to receive unemployment insurance benefits. Benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs