

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICK J FRANK
Claimant

APPEAL NO: 12A-UI-01535-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE COMMUNITY COLLEGE
Employer

**OC: 12/18/11
Claimant: Appellant (1)**

Section 96.4-5-b – Reasonable Assurance/Educational Institution

STATEMENT OF THE CASE:

The claimant appealed a department decision dated February 7, 2012, reference 02, that held he was ineligible for benefits effective December 18, 2011, because he had reasonable assurance of continuing employment between academic terms or years. A telephone hearing was held on March 6, 2012. The claimant participated. John Clopton, HR Services/Executive Director and Ray Beets, Dean, participated for the employer.

ISSUE:

Whether claimant has reasonable assurance of continuing employment between academic terms or years.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: The claimant was hired by the employer as instructor beginning January 14, 2002. He continued employment as a part-time adjunct professor in the fall term of 2011. When his last course was canceled on December 12, 2011 he had not been given a further teaching assignment.

The employer is an educational institution that was on a holiday recess period from December 15, 2011 to a return to class on January 9, 2012. Claimant did not know until about January 6 that he would resume teaching on January 9.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-5-b 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:

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.

The administrative law judge concludes that the claimant is not eligible for unemployment benefits effective December 18, 2011, as he has a reasonable assurance of employment with the same employer (an educational institution) between academic terms.

The claimant is contending that at the time his December class was canceled he did not know he would have a job until January 6, and he should be entitled to unemployment during this period. The law does not permit the claimant and other similar workers to receive unemployment during the interim period such as a holiday recess when there is work before and after this period. Although claimant did not have prior notice of the continuing employment before the holiday recess, he did learn about (on January 6) before it ended, and he resumed teaching on January 9.

DECISION:

The department decision dated February 7, 2012, reference 02, is affirmed. The claimant is not eligible for benefits effective December 18, 2011 due to reasonable assurance.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css