

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GAIL A LEGGETT

Claimant

APPEAL NO. 12A-UI-10893-W

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RAPIDS COMM SCHOOL DISTRICT

Employer

OC: 7/29/12

Claimant: Appellant (2)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

Claimant filed an appeal from a fact-finding decision dated August 29, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, an in-person hearing was scheduled for and held on November 26, 2012. The following three appeals were consolidated: 12A-UI-10893-W (8/29/12 Ref 01 – Separation and Reasonable Assurance); 12A-UI-10652-W (8/20/12 Ref 02 – Backdating); 12A-UI-13778-W (11/8/12 Ref 03 – Overpayment). Claimant participated personally. Her husband, Jeff Leggett, and union representative, Kim Miller, were also present. Employer participated by Angie Etscheidt, Human Resources Specialist.

ISSUE:

The issue in this matter is whether employer gave claimant reasonable assurance of continued employment for the upcoming academic year.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant held two distinct jobs with the employer. She was employed as a paraprofessional for the Cedar Rapids Community School District during the 2011 – 2012 school year. She has worked in this season capacity since 1993, working approximately 20 hours per week. She was also employed as a Childcare Assistant Three since 2007. This employment was permanent part-time work and she worked approximately 25 hours per week.

The employer eliminated claimant's permanent full-time job as a Childcare Assistant Three at the end of the school year on or about May 31, 2012. Claimant filed a claim for benefits during the week of July 29, 2012. She waited for a variety of reasons including fear of losing her job and personal reasons involving caring for a family member.

REASONING AND CONCLUSIONS OF LAW:

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 which was substantially similar to the employment she held prior to May 31, 2012. A substantial portion of her employment was eliminated in a business decision by the School District.

DECISION:

The decision of the representative dated August 29, 2012, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/bjc