

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT T RUSSELL**  
Claimant

**APPEAL NO. 10A-UI-11164-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OSKALOOSA COMM SCHOOL DIST**  
Employer

**OC: 06/13/10**  
**Claimant: Appellant (1)**

Section 96.4-5 – Reasonable Assurance

**STATEMENT OF THE CASE:**

Robert Russell filed a timely appeal from a representative's decision dated August 9, 2010, reference 01, which held the claimant not eligible to receive unemployment insurance benefits for weeks between successive years or academic terms finding that the claimant's unemployment occurred between academic years or terms and that employees of educational institutions are not eligible for benefits between academic years or terms if they have reasonable assurance of employment for the next year. After due notice, a telephone hearing was held September 21, 2010. The claimant participated personally. The employer participated by Mr. Chad Vink, Business Manager and Mr. Dale Nelson, Director of Transportation Operations.

**ISSUE:**

At issue is whether the claimant had reasonable assurance of continuing employment in the next academic term or year.

**FINDINGS OF FACT:**

Robert Russell began his employment with the Oskaloosa School District on October 8, 2009. Mr. Russell worked as a substitute bus driver. The claimant was denied unemployment insurance benefits between academic terms or years effective June 13, 2010 as the claimant had been given reasonable assurance of continuing employment in his regular capacity the following school year or term.

Prior to the end of the spring school term, the school district's then director of transportation, Dale Nelson, met with the claimant and other drivers and informed all substitute drivers that the school district was looking forward to all of the drivers returning back to their regular positions with the school district at the beginning of the next school term. Mr. Russell attended the meeting. By established practice the Oskaloosa School District continues a list of substitute drivers. Drivers are informed that unless they are removed from the list by the district a request to be removed from the list themselves, they will continue to be employed in the same capacity the following school term or academic year.

On August 4, 2010 the Oskaloosa School District offered Mr. Russell full-time employment as a school bus driver, however, the claimant declined the offer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes that the claimant does have reasonable assurance of returning to work the following academic year.

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.

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 evidence in the record does establish that Mr. Russell has reasonable assurance of continuing employment for the 2010 – 2011 school year. As a result, the claimant is not considered unemployed.

**DECISION:**

The representative's decision dated August 9, 2010, reference 01, is affirmed. The claimant does have reasonable assurance of returning to work the following academic year. Benefits are denied.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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