

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 06A-UI-07557-SWT
OC: 06/25/06 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**PENNY D RUNNELLS
302 N JEFFERSON ST
OTTUMWA IA 52501-2718**

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**OTTUMWA COMMUNITY SCHOOL
DISTRICT
ATTN-HUMAN RESOURCES DEPT
422 MCCARROLL
OTTUMWA IA 52501**

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-5-a – School Employee between Academic Years

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 24, 2006, reference 02, that concluded she was not eligible to receive unemployment insurance benefits for weeks between successive academic terms. A telephone hearing was held on August 14, 2006. The claimant provided a telephone number to participate but left a message on her answering machine for the judge stating that she did not intend to participate because she had received adverse decisions in two other cases with the same issue. Delores Allman participated in the hearing on behalf of the employer and agreed that a decision could be made based on the information in the administrative file. Official notice is taken of the Agency's records, which show the wages reported in the claimant's base period from January 1 through December 31, 2005, were from schools (including wages from the employer), except for wages reported by Bauman State Farm Insurance during the third quarter of 2005. If a party objects to taking

official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

FINDINGS OF FACT:

The employer is an Iowa public school district. The claimant was on the substitute teacher list and performed services as a substitute teacher for the employer during the 2005-2006 school year. Being on the substitute teacher list meant she was called to work as a substitute when the employer needed a replacement for a regular teacher. As of the effective date of her claim on June 25, 2006, the employer had notified the claimant that she would continue to be on the substitute teacher list for the 2006-2007 school year under the same terms and conditions as the previous year if she desired to continue in that relationship.

The claimant's benefits are based on wages from employment with schools, including wages paid by the employer, except for wages reported by Bauman State Farm Insurance during the third quarter of 2005. The claimant is filing for benefits for weeks between school years.

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 section 96.4-5-a provides:

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.

The unemployment insurance rules state that these provisions apply to substitute teachers. 871 IAC 24.52(10). The claimant is not eligible for benefits because (1) her benefits are based on services performed for an educational institution, (2) she performed instructional services for the employer during the 2005-2006 school year, and (3) she has reasonable assurance of performing services in the same capacity for the employer for the 2006-2007 school year.

Under the unemployment insurance rules, the between-terms disqualification results in denial of the use of the wages paid for services performed for an educational institution, but if sufficient nonschool wages remain for the individual to qualify for benefits under Iowa Code section 96.4-5, the individual is qualified to receive benefits, if otherwise eligible. 871 IAC 24.52(6). Although the claimant has nonschool wages in her base period, they are not enough to qualify her for benefits because Iowa Code section 96.4-5 requires claimant to have wages in more than one quarter in the base period and all her other wages are from schools.

DECISION:

The unemployment insurance decision dated July 24, 2006, reference 02 is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between school years based on wages paid by educational institutions and she has insufficient nonschool wages to qualify for benefits.

saw/pjs