

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBIN CLARKE**  
Claimant

**DRAKE UNIVERSITY**  
Employer

**APPEAL 21A-UI-06939-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/10/20**  
**Claimant: Appellant (5R)**

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Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant/appellant, Robin Clarke, filed an appeal from the March 4, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits but excluded claimant’s educational institution wages. The parties were properly notified about the hearing. A telephone hearing was held on May 17, 2021. The claimant participated. The employer was represented by Debra Wiley.

The administrative law judge took official notice of the administrative records, including wage history. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the claimant have reasonable assurance of continued employment in the next school year?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established her claim for unemployment insurance benefits with an effective date of May 10, 2020.

Claimant began employment in 2018 for Drake University. Claimant worked during the school year, approximately two hours per week as an accompanist. Claimant also performs work at Drake as piano teacher for the employer year round, approximately five hours per week. Claimant works no more than ten hours per week. Claimant does not receive a yearly contract or letter of assignment in her capacity. Her hours fluctuate based upon student enrollment.

Claimant works only part-time approximately five hours and has earned wages each week she has made a claim for unemployment insurance benefits from May 10, 2020 through May 8, 2021.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge modifies the initial decision with no change in effect.

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.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

Iowa Admin. Code r. 871-24.51(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.

Based on the evidence presented, the administrative law judge concludes the issue of reasonable assurance is moot as claimant is a year-round employee without customary breaks between academic years or terms.

The real issue at hand is whether claimant has been totally, partially or temporarily employed any week since filing her claims for benefits with an effective date of May 10, 2020, or whether she as a part-time employee is working under the same hours/wages for which she was hired. This issue is remanded to the Benefits Bureau for an initial investigation.

**DECISION:**

The March 4, 2021 (reference 01) unemployment insurance decision is modified with no change in effect. The issue of reasonable assurance is moot as claimant is a year-round employee.

**REMAND:**

The issues of whether claimant is totally, partially or temporarily unemployed and whether claimant is still working under the same conditions/hours for which she was hired are remanded to the Benefits Bureau for an initial investigation.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

June 11, 2021  
Decision Dated and Mailed

jlb/mh

**NOTE TO CLAIMANT:**

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. More information about how to apply for PUA is available online at: [www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>