

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH T STAUB
Claimant

APPEAL NO. 16A-UI-08568-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURLINGTON COMMUNITY SCHOOL DIST
Employer

OC: 06/26/16
Claimant: Appellant (1)

Section 96.4-5 – Benefits Between Successive Academic Terms

STATEMENT OF THE CASE:

The claimant, Joseph Staub, filed a timely appeal from a representative's decision dated August 3, 2016, reference 01, which held Mr. Staub not eligible to receive unemployment insurance benefits for weeks between successive, academic terms or years with an educational institution. After due notice was provided, a telephone conference hearing was held on August 24, 2016. Claimant participated. Although duly notified, the employer did not participate.

ISSUE:

The issue is whether the claimant is eligible for benefits between successive terms with an educational institution based upon wages from that institution.

FINDINGS OF FACT:

The claimant started working for the Burlington Community School District in February 2011. Mr. Staub works as a full-time school bus driver and is paid by the hour. Mr. Staub worked for the Burlington Community School District this year until June 3, 2016 and there is no further work available to him from the Burlington school district between the end of the spring academic term and the start of the fall academic term.

At the end of the spring academic term, Mr. Staub was given a contract by the Burlington Community School District for the fall 2016 term providing Mr. Staub with reasonable assurance that his employment with the Burlington Community School District would resume in the fall. Mr. Staub continued to perform services as a school bus driver for the school district at the time of hearing. It is the claimant's position that because he worked on a contract basis with his parish church, Notre Dame, during the summer months of 2015, he should be eligible for partial unemployment insurance benefits on wage credits earned from his employment with the church.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did have reasonable assurance of returning to his employment with the Burlington Community School District for the fall 2016 academic year.

Iowa Code § 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 evidence in the record establishes that Mr. Staub did have reasonable assurance of continuing employment for the fall 2016 school year and that Mr. Staub has, in fact, returned to his employment with the educational institution for the second academic year or term after performing services in the first of such academic years or terms for the educational institution. Because Mr. Staub had received reasonable assurance that he would return to his regular position with the community school district, he is not eligible to receive unemployment insurance benefits between terms or years.

Although Mr. Staub had earnings from another employer during one quarter in his base period, these wages were for services performed for a church or church organization. 871 IAC 23.27 provides that employment in the employ of a church, associate of churches or organization which is operated primarily for religious purposes is exempt employment and that wages earned in exempt employment cannot be used to establish an unemployment insurance claim.

DECISION:

The representative's decision dated August 3, 2016, reference 01, is affirmed. Claimant is not eligible to receive unemployment insurance benefits for weeks between successive years or terms in employment with an educational institution because he had received reasonable assurance of employment for the next academic term or year.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs