

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HECTOR L CUEBAS
Claimant

CEDAR RAPIDS COMM SCHOOL DIST
Employer

APPEAL 20A-UI-07470-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/17/20
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Eligibility – Reasonable Assurance

STATEMENT OF THE CASE:

Claimant filed an appeal from the June 30, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 28, 2020, at 1:05 p.m. Claimant participated. Employer did not participate. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is eligible for benefits between academic years or terms.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with Cedar Rapids Community School District on January 28, 2013. Claimant is employed as a full-time Special Education Teaching Assistant during the school year. Claimant worked for employer for the 2019-2020 school year. On March 23, 2020, employer closed due to Covid-19 and remained closed for the remainder of the school year, which was scheduled to end on June 1, 2020. Employer paid claimant his regular wages through the week ending June 5, 2020. Claimant filed an initial claim for benefits effective May 17, 2020. Claimant plans to return to work for employer for the 2020-2021 school year, beginning September 14, 2020. Claimant only earned wages from this employer during the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant had reasonable assurance of returning to work the following academic year. Benefits are denied.

Iowa Code section 96.4(5) 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 96.1A, 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.

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.

c. With respect to services for an educational institution in any capacity under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

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.

Employer is an educational institution. Claimant performed work for employer for the 2019-2020 school year. Claimant has reasonable assurance of returning to work for employer for the 2020-2021 school year. Claimant's only wages earned during the base period are from employer. Therefore, claimant is not eligible for benefits during the 2020 summer break. Benefits are denied.

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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The June 30, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant has reasonable assurance of returning to work for employer for the 2020-2021 school year. Benefits are denied.



Adrienne C. Williamson
Administrative Law Judge
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September 10, 2020
Decision Dated and Mailed

acw/scn