

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANELL K WALKER
Claimant

**WESTERN IA TECH COMMUNITY
COLLEGE**
Employer

APPEAL 19A-UI-05151-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/02/19
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant/appellant, Janell K. Walker, filed an appeal from the June 24, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded she was ineligible for benefits between academic terms. The parties were properly notified about the hearing. A telephone hearing was held on July 23, 2019. The claimant participated personally. The employer, Western Iowa Tech Community College, participated through Jackie Plendl, interim human resources manager. The administrative law judge took official notice of the administrative records including the fact-finding documents and Wage-A. 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.

ISSUE:

The issue is whether the claimant is between successive terms with an educational institution and had reasonable assurance of employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed full-time as an instructional assistant for Western Iowa Tech Community College and last performed work during the 2018-2019 academic year, which was from August 22, 2018 until May 30, 2019. She has worked for the employer for approximately five years and knows each summer no work will be offered. Prior to May 30, 2019, the claimant was provided reasonable assurance to return to the employment for the 2019-2020 school year. She is expected to return to work on August 8, 2019.

In prior years, the claimant worked at Whiting Commercial Development as a CNA during the summer, since she was not working for Western Iowa Tech Community College during the summer. She quit that employment in April 2019 due to personal reasons involving a protective order. She does not appear to be monetarily eligible for benefits based upon the non-education wage credits earned through Whiting Commercial Development pursuant to Iowa Code § 96.4(4) and Iowa Admin. Code r. 871-24.52(6).

REASONING AND CONCLUSIONS OF LAW:

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

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 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.

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.

Where a claimant did not work over the summer for a community college which held a summer session, the Court still denied benefits because of the "summer vacation." *Merged Area VII v. Iowa Dep't of Job Serv.*, 367 N.W.2d 272, 274, 275 (Iowa Ct. App. 1985)

In this case, the claimant is an employee of an educational institution. Based on the unemployment insurance law, the claimant is not eligible for benefits between school terms because she worked for the school during the 2018-2019 school year and had a reasonable assurance of working for the school in the same job during the 2019-2020 school year.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient non-school wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

While the claimant does have other non-educational institution wage credits in the base period, she is not otherwise monetarily eligible according to base period wages. Accordingly, benefits are denied.

DECISION:

The unemployment insurance decision dated June 24, 2019, (reference 01) is affirmed. The claimant does have reasonable assurance of returning to work the following academic year. The claimant is not otherwise monetarily eligible according to base period wages. Benefits are denied.

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

Decision Dated and Mailed

jlb/scn