

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A JOHNSON-CHEESMAN
Claimant

APPEAL NO. 20A-UI-04636-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RAPIDS COMM SCHOOL DIST
Employer

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.4-5 – Reasonable Assurance
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 22, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 11, 2020. Claimant participated personally. Employer participated by hearing representative Judy Berry and witness Benjamin Happel. Employer's Exhibit 1 and Claimant's Exhibit A were admitted into evidence. Both parties waived time and granted leave to address the issues of whether claimant was able and available for work and whether claimant

ISSUE:

Whether employer gave claimant reasonable assurance of continued employment for the upcoming academic year?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: claimant was employed as a para educator for the Cedar Rapids Community School District during the 2019 – 2020 school year. On February 5, 2020 claimant requested and was granted a two month leave of absence so that she could concentrate on her academic needs. At the time of the leave, claimant was instructed that she would not be instructing the student she was at the time of the leave, and that she would not be guaranteed any position when she was returning on April 6, 2020.

While claimant was on leave, school was ended for the year. Neither party knew that school would be ended at the time claimant went on leave.

Claimant argued that at the time of her scheduled return, there were many positions available that she had the qualifications to fill. Therefore, she argued, it should be seen that it is the school district's responsibility and not hers that she was not employed on April 6, 2020. Therefore, she should be qualified for ordinary unemployment benefits.

Claimant has received state unemployment benefits in this matter in the amount of \$2,279.00 and Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant did not have reasonable assurance of continued employment when she returned from her leave of absence. In fact, she was alerted before her leave that there might not be a position when she was to return from her leave. Employer did not give any reasons as to why there might not be a position available, rather employer simply stated that there might not be a position when she returned. In fact, there was not a position available when claimant returned to work. This does not satisfy the requirements for a reasonable assurance necessary to qualify for regular unemployment benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

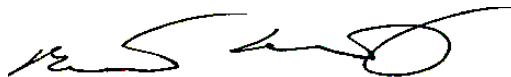
b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Claimant has received state unemployment benefits in this matter in the amount of \$2,279.00 and Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00. Said amounts are overpayments.

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 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>.

DECISION:

Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. Claimant has received state unemployment benefits in this matter in the amount of \$2,279.00 and Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00. Said amounts are overpayments.



Blair A. Bennett
Administrative Law Judge

June 25, 2020
Decision Dated and Mailed

bab/scn