

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KORRI CLARKWILT**  
Claimant

**APPEAL 21A-UI-08634-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NORTWALK COMMUNITY SCHOOL  
DISTRICT**  
Employer

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

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Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant/appellant, Korri Clarkwilt, filed an appeal from the March 22, 2021 (reference 10) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits effective December 27, 2020.

A first telephone hearing (with seventeen companion cases) was scheduled for June 14, 2021 with Administrative Law Judge, Duane Golden. On June 10, 2021, claimant’s counsel, Justin Vondrak, requested a postponement due to a trial conflict. The request was granted and the hearings were reset for July 15, 2021. Due to an inadvertent error, Mr. Vondrak was excluded from the notices of hearings and was not mailed copies for the new hearings. The hearing was postponed to August 16, 2021 by Administrative Law Judge, Jennifer L. Beckman, to allow proper notice to counsel.

After proper notice, a telephone hearing was conducted on August 16, 2021. The following appeals were consolidated for the telephone hearing: 21A-UI-08612-JC-T, 21A-UI-08617-JC-T, 21A-UI-08622-JC-T, 21A-UI-08634-JC-T, 21A-UI-08639-JC-T, 21A-UI-08613-JC-T, 21A-UI-08615-JC-T, 21A-UI-08619-JC-T, 21A-UI-08627-JC-T, 21A-UI-08631-JC-T, 21A-UI-08638-JC-T, 21A-UI-08640-JC-T, 21A-UI-08643-JC-T, 21A-UI-08644-JC-T, 21A-UI-08646-JC-T, 21A-UI-08648-JC-T, and 21A-UI-08645-JC-T and 21A-UI-08649-JC-T.

The claimant, Korri Clarkwilt participated personally and was represented by Justin Vondrak, attorney at law. The Investigations and Recovery Unit of IWD was represented by Jeffrey Konscol, attorney at law. Daniel Noonan testified. Tiffany Patterson participated for the employer. Darrin Hamilton, administrative law judge, attended as an observer.

The administrative law judge took official notice of the administrative records, including wage history. Department Exhibits 1-22 were admitted into evidence. 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:**

Does the claimant have reasonable assurance of employment following a customary vacation or holiday recess?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: This employer is an educational institution. Claimant began employment for the Norwalk Community School District in 1993. She was a full-time health teacher until June 30, 2021 when she retired. Claimant's employment with the school district ran concurrent with the academic school year. She did not work over customary breaks (spring, fall, winter) or over the summer.

Claimant established her claim for unemployment insurance benefits with an effective date of March 22, 2020 and a second claim effective March 21, 2021. Claimant filed a claim for unemployment insurance benefits for the week of December 27, 2020 through January 2, 2021. Claimant would not customarily work this week because it was winter break. Claimant would know she would not be performing work for this week based upon over 20 years of employment with this employer. The claimant knew that she would be returned back to work teaching effective January 3, 2021 and did in fact return.

Claimant's administrative records establish that she has other regular non-educational institution employment wage credits in the base period.

**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 but has other non-educational wages in the base period history.

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 96.19, 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.

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.

(emphasis added).

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.

Iowa Admin. Code r. 871-24.52(9) provides in part:

(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and

there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

Claimant had reasonable assurance that her employment would continue following the employer's established and customary vacation period. The claimant did have reasonable assurance of returning to work following the established and customary vacation period. Benefits are denied effective December 27, 2020.

However, claimant also has other non-educational institution wage credits in the base period. The monetary eligibility issue based upon wages from other employer as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. Benefits may be allowed, provided she is otherwise eligible.

The March 22, 2021 (reference 10) decision is affirmed. The claimant did have reasonable assurance of returning to work following the established and customary vacation period. Benefits are denied effective December 27, 2020.

However, claimant also has other non-educational institution wage credits in the base period. The monetary eligibility issue based upon wages from other employer as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. Benefits may be allowed, provided she is otherwise eligible.

**DECISION:**

The March 22, 2021 (reference 10) decision is affirmed. The claimant did have reasonable assurance of returning to work following the established and customary vacation period. Benefits are denied effective December 27, 2020.

**REMAND:**

The monetary eligibility issue based upon wages from other employer as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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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

September 9, 2021  
Decision Dated and Mailed

jlb/mh