

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GAIL LEGGETT**

Claimant

**APPEAL NO: 13A-UI-10229-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMM SCHOOL DIST**

Employer

**OC: 07/28/13**

**Claimant: Appellant (1-R)**

Section 96.4-5 – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 28, 2013, reference 01 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 8, 2013. The claimant participated in the hearing. Anthony Spurgetis, Human Resources Specialist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant received a reasonable assurance for employment in the next academic year.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a half-time kindergarten para-professional for Cedar Rapids Community School District during the 2011 - 2012 school year. The school district notifies employees whose positions will be cut from the budget prior to the end of the school year and all other employees can safely assume they will be returning for the following school year. The claimant was not notified that her kindergarten para-professional position would be cut and she is employed in that capacity this school year.

The claimant previously had a second job with the school district as a before and after school daycare provider. That position was year round and the claimant worked approximately three hours per day during the school year and 25 to 30 hours per week during the summer and school breaks before it was eliminated at the end of the 2011-2012 school year. The claimant received partial benefits from that position before having to file a new claim with the Agency.

The issues of whether the claimant is partially unemployed, whether she is able and available for work and whether she is still working the same hours for the same wages has not yet been investigated and adjudicated by the Claims Section.

## **REASONING AND CONCLUSIONS OF LAW:**

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

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.

871 IAC 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 had a reasonable assurance of returning to work for the 2013-2014 school year as a kindergarten para-professional and she is not disputing that issue. The real issue the claimant is asking to be determined is whether she is eligible for partial unemployment insurance benefits. That issue, as well as whether she is able and available for work and still employed at the same hours and wages, was not contained on the hearing notice. Consequently, it is remanded to the Claims Section for an initial determination and adjudication.

## **DECISION:**

The August 28, 2013, reference 01, decision is affirmed. The claimant did have reasonable assurance of returning to work during the 2013-2014 school year as a kindergarten para-professional. Benefits are denied with regard to that issue. The issues that need to be adjudicated are whether the claimant is able and available for work and whether she is still

employed at the same hours and wages. Those issues are remanded to the Claims Section for an initial determination and adjudication.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css