

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANA C HAMMEL
Claimant

APPEAL NO. 11A-UI-09882-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST
Employer

OC: 05/29/11
Claimant: Appellant (1)

Section 96.4-5-a – Benefits During Successive Academic Terms

STATEMENT OF THE CASE:

Diana C. Hammel (claimant) appealed a representative's July 20, 2011 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits between school years because she was a school employee with the Des Moines Independent Community School District (employer) and had reasonable assurance of employment in the next school year. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 18, 2011. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible for benefits between successive terms with an educational institution based on wages from that institution?

FINDINGS OF FACT:

The claimant started working for the employer in September 2009, working as an on-call substitute teacher. She established a new claim for unemployment insurance benefits for benefits with an effective date of May 29, 2011. Her primary base period wage credits are from the employer. She does have some other base period wage credits from another educational institution, the West Des Moines Community School District. She also has some other base period wage credits from non-educational institutions, but those wage credits are only \$636.00 in the first quarter 2010, and \$747.00 in the second quarter 2010.

The claimant's last day of work in the 2010 – 2011 school year was May 27, 2011. She understood that she remained on the substitute teacher list over the summer break and was reasonably assured of employment as a substitute teacher afterward on the same basis. She in fact has been advised that she will be returning to work after the summer break, starting on or about August 25, 2011.

REASONING AND CONCLUSIONS OF LAW:

Iowa law provides that a claimant who has wage credits earned through service in an instructional, research, or principal administrative capacity in an educational institution is only eligible for benefits based on those wage credits during the period between two successive academic years if the claimant does not have a contract or “reasonable assurance” that the claimant will perform services in any such capacity for any educational institution for both such academic years or both such terms. Code § 96.4-5-a. “Reasonable assurance” is any written, verbal, or implied agreement that the claimant can expect to perform services for the employer in the same or similar capacity in the next year or term which is not substantially less in economic terms and conditions than the service performed during the prior academic year or term, where that understanding has been communicated to the claimant. 871 IAC 24.51(6).

871 IAC 24.52(10)a provides:

- a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

The employer is an “educational institution.” 871 IAC 24.51(1). The claimant worked for the employer during the 2010 – 2011 academic year and is expected to work for the employer during the upcoming academic year. The two academic years are successive terms. Therefore, the claimant is between successive terms with an educational institution, and she would not be eligible to receive unemployment insurance benefits based upon her wage credits with the employer or any other educational institution. The claimant does not have sufficient wage credits from non-educational institutions upon which benefits can be paid.

DECISION:

The representative’s July 20, 2011 decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the period between successive terms with the employer.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw