

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**JO E NOWAK-THOMPSON**

Claimant,

and

**MOUNT VERNON COMM SCHOOL DIST**

Employer.

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**HEARING NUMBER: 10B-UI-11132**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION: 96.4-5**

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

**FINDINGS OF FACT:**

The claimant, Jo E. Nowak-Thompson, was employed by Mount Vernon Community School District beginning September 25, 2009 as a part-time early childhood teacher for academic school year 2009-2010. (Tr. 3, 10) The claimant took the option of being paid on a 12-month basis as opposed to 9-month. (Tr. 6, 13) According to Iowa law, any teacher not being offered a contract for the upcoming school year must be notified by April 30<sup>th</sup>. (Tr. 8) The employer issued a reduction in workforce letter dated April 23<sup>rd</sup>, 2010 to Ms. Nowak-Thompson indicating that her contract would not be renewed due to budgetary constraints. (Tr. 3, 5, 10, Exhibit A) Not all teaching staff received this letter (Tr. 3); and for those teachers who didn't, their contracts were renewed as usual in August. (Tr. 7-8, 9)

The claimant completed the 2009-2010 school year and immediately filed for unemployment benefits on June 6, 2010. (Tr. 11) She received an e-mail on June 19<sup>th</sup> from Dr. Ewell, the School Board superintendent, who offered her the same position for the upcoming school year. (Tr. 3, 6, 11, 17-18, 19, Exhibit 1) In the meantime, the claimant's mother had passed and she was involved in funeral matters in both Arizona and Wisconsin. (Tr. 4, 1, Exhibit 2) Ms. Nowak-Thompson responded to the employer's e-mail on June 29<sup>th</sup>, explaining her slow response and indicating that she wanted to speak with Dr. Ewell. (Tr. 11, 18-19, Exhibit 2)

When the claimant returned to Iowa, she retrieved the contract, signed and returned it on July 6<sup>th</sup>. (Tr. 4, 7, 11, 12, 16, 20, Exhibit E) The School Board held a meeting on July 12<sup>th</sup> to vote on whether to approve the contract for the claimant's return to teach for the 2010-2011 academic year. (Tr. 12, 15, Exhibit D) The Board President signed and issued the claimant's contract on July 12, 2010. (Tr. 7, 12, 15, 16, Exhibit E)

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

871 IAC 24.52(12) which provides:

Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met...

The employer testified that he issued a letter dated April 23<sup>rd</sup> informing Ms. Nowak-Thompson that she wouldn't be offered a contract for the following school term. (Tr. (Tr. 3, 5, 10, Exhibit A) This type of letter was issued in accordance with Iowa law when the employer chose not to offer a contract for the upcoming school year. (Tr. 8) The fact that not all teachers received this letter is indicative that the claimant's situation was different, i.e., the claimant had no reasonable assurance of continued employment in the fall. When her contract ended on June 5<sup>th</sup>, the claimant filed for unemployment benefits based on her lack of employment as of that date. It was only when the employer offered her a new contract for which she signed on July 6<sup>th</sup> that the claimant's circumstances changed. However, for the time period between the last day of school and her signature on the new contract, the claimant is *not* disqualified for unemployment benefits.

**DECISION:**

The administrative law judge's decision dated October 12, 2010 is **REVERSED**. The Employment Appeal Board concludes that the claimant had no reasonable assurance within the meaning of the statute for the academic year of 2010-2011 school year between April 23<sup>rd</sup>, 2010 and July 6, 2010. Accordingly, she is allowed benefits provided she is otherwise eligible.

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John A. Peno

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Monique F. Kuester

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