

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN I MICHALEC
Claimant

APPEAL NO. 21A-UI-00900-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLLEGE COMMUNITY SCHOOL DISTRICT
Employer

OC: 07/12/20
Claimant: Respondent (2)

Iowa Code § Section 96.4-5 – Reasonable Assurance
Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.1(A)(37) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 24, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 12, 2021. Claimant participated personally. Employer participated by Jeri Moritz and Chris Hartgrave. Employer failed to respond to the hearing notice and did not participate. Employer's exhibit 1 was admitted into evidence.

ISSUES:

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

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

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 part time bus driver for the College Community School District during the 2019 – 2020 school year. Claimant had been employed in this position for three years prior and had consistently been offered her a returning position every year. Employer on July 31, 2020 offered reasonable assurance of work for the next academic year by sending claimant a letter sent to all bus drivers alerting them of a meeting to be held on August 13 for all bus drivers.

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 have reasonable assurance of continued employment for the 2020-2021 school year. As a result, the claimant is not considered unemployed

DECISION:

The decision of the representative dated November 24, 2020, reference 01 is reversed. Claimant is not eligible for unemployment benefits.

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.



Blair A. Bennett
Administrative Law Judge

February 22, 2021
Decision Dated and Mailed

bab/kmj