

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LIDIA L VIRRUETA SERRANO

Claimant

APPEAL NO: 17A-UI-06519-TN

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIoux CITY COMMUNITY SCHOOL DIST

Employer

OC: 06/04/17

Claimant: Appellant (1)

Iowa Code § 96.4 (5)a – Benefits between successive Academic Terms or Years

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's unemployment decision dated June 22, 2017, (reference 02), that concluded that she was not eligible to receive unemployment insurance benefits between academic terms or years based upon her employment with the Sioux City Community School District. After due notice, an in-person hearing was held in Sioux City, Iowa on July 13, 2017. Claimant participated. The employer participated by Ms. Stephanie Verros, Assistant Human Resource Director and Ms. Rita Vannatta, Human Resource Director. Based upon the evidence, the arguments of the party of the law, the administrative law judge enters the following finding of fact, reason and conclusion of law, and decision.

ISSUE:

Whether the claimant was eligible for unemployment insurance benefits between successive academic terms or years with an educational institution, based on wages from an educational institution.

FINDINGS OF FACT:

The claimant began working the Sioux City Community School District on September 15, 2015 as a full-time instructional assistant and paid by the hour. The claimant's immediate supervisor is the school principal at the school where she is assigned. The claimant's last day of work was May 31, 2017 when the 2016-2017 term ended. Prior to her last day of work, and before the school term ended, the claimant was provided a letter by a Sioux City Community School District assuring Ms. Virrueta-Serrano that she would continue to be employed in the same capacity as a full-time instructional assistant with the school district when the school resumes for the 2017-2018 school term. The claimant confirmed to the school principal that she would be returning to employment.

It is the claimant's position that although she has been assured of employment during the next school term, she is nevertheless unemployed during the summer months and should be eligible to receive unemployment insurance benefits. Ms. Virrueta-Serrano asserts that she knows of

other individuals who are employed by school district in the same capacity who have been determined to be eligible to receive unemployment insurance benefits between academic years. The claimant declined to identify any of those individuals.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4-(5)-a 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.

The employer is an "educational institution". 871 IA C24.5 (1). The claimant worked for the educational institution in an instructional capacity during the 2016-2017 academic year and has been given reasonable assurance that she will work for the Sioux City Community School District in her same employment capacity during the 2017-2018 academic year. Because the law provides that no benefits can be paid to claimants between academic terms or years based upon wage credits earned through service in an instructional research or principal administrative capacity for an educational institution, unemployment insurance benefits were properly denied to this claimant.

The administrative law judge is mindful that the claimant asserts that she is aware other individuals who are employed in the same capacity who have been allowed unemployment insurance benefits, the claimant, however, has declined to provide the identities of those other individuals.

The law requires that any provisions of the Iowa Employment Security Law be equal and fairly applied to all individual claiming unemployment insurance benefits. Iowa Workforce Development regularly investigates complaints made that individuals are fraudulently claiming received benefits or receive benefits to which they are not entitled, provided that the claimant is willing to give additional information to the agency.

DECISION:

The June 22, 2017, ref 02 is affirmed. The claimant is not eligible to receive unemployment insurance benefits between the academic terms or years. The claimant has reasonable assurance of returning to employment with an educational institution for the next academic year.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn