

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEBORAH S BEAULIEU
Claimant

APPEAL 19A-UI-07059-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX CITY COMMUNITY SCHOOL DIST
Employer

**OC: 08/11/19
Claimant: Respondent (4R)**

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

On September 5, 2019, the employer filed a timely appeal from the August 30, 2019, (reference 01) unemployment insurance decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on September 30, 2019. Claimant did not register for the hearing and did not participate. Employer participated through assistant director of human resources Stefanie Verros. Employer's Exhibits 1 and 2 were received.

ISSUE:

Does the claimant have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant began her employment on September 27, 2018, as a part-time food service worker. On March 16, 2019, claimant resigned from the part-time position and requested to be a substitute food service worker. The claimant was employed as a substitute food service worker for employer beginning April 5, 2019, until summer break commenced on May 30, 2019. Claimant remains on the substitute teacher list and has worked for employer in the 2019-2020 school year.

Claimant has other regular non-educational institution employment wage credits in the base period. She appears to be monetarily eligible for benefits based upon the other wages.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant does have reasonable assurance of returning to work the following academic term or year but also has other non-educational institution wages in the base period, which may make her otherwise eligible for benefits.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

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.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient non-school wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

Claimant remains on the substitute teacher list. Thus, she does have reasonable assurance of continued employment. However, because claimant does have other non-educational institution wages in her base period, benefits may be allowed based upon the other wages, provided she is otherwise eligible. This employer will not be charged for those benefits.

DECISION:

The August 30, 2019, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant does have reasonable assurance of returning to work the following academic year or term, but may be eligible for benefits based upon non-educational institution wages. This employer (103867) shall not be charged.

REMAND: The monetary eligibility issue based upon wages from non-educational institution employers as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn