

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLYDE J HOOVER**  
Claimant

**APPEAL NO. 08A-UI-04396-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMMUNITY SCHOOL  
DISTRICT**  
Employer

**OC: 03/03/08 R: 03  
Claimant: Appellant (2)**

Section 96.4-5 – Reasonable Assurance of Continued Employment

**STATEMENT OF THE CASE:**

Clyde J. Hoover filed a timely appeal from an unemployment insurance decision dated May 1, 2008, reference 03, that denied unemployment insurance benefits based upon his employment with the Cedar Rapids Community School District during the summer of 2008 upon a finding that he had reasonable assurance of continued employment with the school district for the fall of 2008. After due notice was issued, a telephone hearing was held May 21, 2008. Mr. Hoover participated on his own behalf, and Benefits Specialist Jean Milne participated for the employer.

**ISSUE:**

Does the claimant have reasonable assurance of continued employment by the employer in the upcoming academic year?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Clyde J. Hoover is employed by Cedar Rapids Community School District as a transportation driver. His last day of work in the 2007-08 school year will be June 6, 2008.

Employees in Mr. Hoover's classification ordinarily receive written confirmation that they will be employed during the following school year. These notices ordinarily are mailed out before the end of the school year. Mr. Hoover has not received such notification. The school district had not issued notifications as of the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether Mr. Hoover has reasonable assurance of continued employment by Cedar Rapids Community School District during the 2008 – 2009 school year. For the reasons which follow, the administrative law judge concludes that he does not.

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.

Ms. Milne testified that employees such as Mr. Hoover customarily receive written confirmation of continued employment for the upcoming school year. She acknowledged that the district had not finalized its plans as of the date of the hearing. Mr. Hoover testified that he had received no such notification for the 2008 – 2009 school year. From this, the administrative law judge concludes that as of the date of May 21, 2008, Mr. Hoover had not received reasonable assurance of continued employment for the upcoming academic year.

Citing federal law and legislation in other states, Mr. Hoover argued that the Iowa law could and should be different than it is. In so doing, Mr. Hoover has preserved the argument for further review. This administrative law judge, however, has no authority to change Iowa law, only to apply the law as it exists to the facts presented in this and any other case. Mr. Hoover also raised the allegation of mass separation from employment. That issue appears to be premature, as there is no evidence that any employees have been laid off at this time.

**DECISION:**

The unemployment insurance decision dated May 1, 2008, reference 03, is reversed. The claimant has no reasonable assurance of continued employment in the 2008 – 2009 school year. At this time, benefits should be computed based on all base period wages, including those from Cedar Rapids Community School District. Should Mr. Hoover receive reasonable assurance from the district, this fact should be conveyed promptly to the local Workforce Development Center.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

css/kjw