

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TESS M BURSCH**  
Claimant

**DES MOINES IND COMMUNITY SCH  
DISTRICT**  
Employer

**APPEAL 20A-UI-08835-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/24/20**  
**Claimant: Appellant (1R)**

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Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant/appellant, Tess M. Bursch, filed an appeal from the July 13, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 10, 2020. The claimant participated personally. The employer participated through Rhonda Wagoner. Bobbie Jo Sheridan also testified.

The administrative law judge took official notice of the administrative records. Employer Exhibits 1-3 were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant is between successive terms with an educational institution and had reasonable assurance of employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is an educational institution and claimant’s only employer in her base period.

The claimant began employment December 2016. Claimant was employed as a part-time enrichment coach for the Des Moines Independent Community School District. Claimant was hired to work for the academic year, which runs August/September through May each year. Claimant was told that there was optional work available during some breaks and summer, but it was outside of her work contract each year, and not guaranteed.

Claimant last physically worked on the job March 13, 2020, but was paid through May 29, 2020 for the 2019-2020 school year. Prior to school ending, claimant was informed she would be invited to return back to school for the 2020-2021 school year, which began on September 3, 2020. No summer work was available to the claimant because of low enrollment.

Prior to the 2020-2021 school year beginning, claimant tendered her resignation. The issue of the claimant's permanent separation from employment has not yet been addressed by the Benefits Bureau.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

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.

In this case, there was no change in the agreement of hire or question that the claimant would have employment for the 2020-2021 academic year. At issue is the fact the claimant was not offered summer work after the 2019-2020 school year, which is outside of her academic year and not guaranteed. The administrative law judge recognizes the claimant's frustration, but the claimant did have reasonable assurance of returning to work the following academic year or term. Accordingly, she is not eligible for benefits between academic terms.

The claimant's permanent separation from employment with this employer is remanded to the Benefits Bureau for an initial decision and determination.

*Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.*

**DECISION:**

The unemployment insurance decision dated July 13, 2020, (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between successive terms with the employer.

**REMAND:** The claimant's permanent separation from employment with this employer is remanded to the Benefits Bureau for an initial decision and determination.

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)



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September 14, 2020  
Decision Dated and Mailed

jlb/sam