

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEE A BOWMAN

Claimant

APPEAL 20A-UI-06670-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX CITY COMMUNITY SCHOOL DIST

Employer

OC: 04/19/20

Claimant: Appellant (1)

Section 96.4-5 – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated June 16, 2020 (reference 01) that determined she was still employed at the same hours and wages. After due notice was issued, a hearing was held by telephone conference call on July 28, 2020. The claimant participated in the hearing with witness/substitute bus driver Diana Jungemann. Stefanie Verros, Assistant Director of Human Resources, participated in the hearing on behalf of the employer. Employer's Exhibits One through Three were admitted into evidence.

ISSUES:

The issue is whether the claimant is unemployed during two successive academic years or terms.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a full-time bus driver for Sioux City Community School District on August 31, 2017. School closed March 16, 2020, due to COVID-19 and bus drivers were assigned other duties. The claimant worked seven hours per day until school ended June 2, 2020.

Summer school was cancelled as were softball and baseball trips. The employer offered food service routes for four hours per day. The claimant did not apply for that position. Other trips that come up go by seniority. The claimant told the dispatcher she was available for any trips. The claimant's contract does not guarantee her a certain number of hours or summer employment. The claimant has a contract for the 2020-2021 school year.

The claimant groomed dogs during the summer of 2018 and had a hysterectomy in the summer of 2019 and was consequently limited in the hours she could work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did have a reasonable assurance of returning to work the following academic year.

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 was hired to work full-time during the school year. That did not include summer hours. While she may pick up hours in the summer, she has only worked four days in the past two summers. The employer did not guarantee the claimant any summer hours. The claimant is unemployed between academic years or terms. Therefore, benefits must be denied.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, 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 does not have to be able and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The June 16, 2020. (reference 01) unemployment insurance decision is affirmed. The claimant is unemployed between two successive academic terms or years. Regular unemployment insurance benefits funded by the state of Iowa are denied.



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

August 17, 2020
Decision Dated and Mailed

je/scn

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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.