

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIAH R KAMMERUDE
Claimant

APPEAL 21A-UI-01026-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DUBUQUE COMMUNITY SCHOOL
DISTRICT**
Employer

**OC: 07/19/20
Claimant: Appellant (5R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications Same Hours and Wages
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 1, 2020, (reference 01) unemployment insurance decision that denied benefits a determination that claimant was still employed for the same hours and wages as in her original contract of hire. The parties were properly notified of the hearing. A telephone hearing was held on February 15, 2021. The claimant did participate. The employer participated through payroll specialist Mindy Klein. The administrative law judge took official notice of the administrative file.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Was the claimant able to and available for work effective July 19, 2020?
Does the claimant have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed by employer since 2015. Since July 1, 2019, claimant has worked part time as a bus attendant. She works 23 hours per week and earns \$15.82 per hour in this position and her hours and wages are set out in her contract with employer. Claimant received an offer to return to her position in 2020-2021 and signed a contract with employer on June 17, 2020. Claimant does not work for employer during breaks and began working and receiving her regular hours and wages from employer when school started in August 2020.

Claimant has other non-educational institution employment wage credits in the base period. The record is unclear as to whether she is monetarily eligible for benefits based upon the wages she has received.

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. The claimant also has other non-educational institution wages in the base period, which may make her otherwise eligible for benefits.

Iowa Code section 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.

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 Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

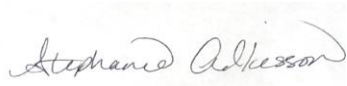
During the summer months when school was not in session, the claimant had reasonable assurance of returning to her employment the following school year as she signed a contract in June to do so. Claimant had reasonable assurance to return to her position with an educational institution the following school year, so she is not considered unemployed during the normal vacation period or holiday recess. Claimant returned to work in August 2020 at her same hours and wages. Benefits are denied due to claimant's reasonable assurance to return to work the next calendar school year.

DECISION:

The December 1, 2020, reference 01, unemployment insurance decision is modified with no change in effect. The claimant does have reasonable assurance of returning to work the following academic year or term. Benefits are denied.

REMAND:

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



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

March 1, 2021
Decision Dated and Mailed

sa/mh

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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.