

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA L HENDRICKS
Claimant

APPEAL NO. 08A-UI-06028-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DUBUQUE COMMUNITY
SCHOOL DISTRICT**
Employer

**OC: 06-01-08 R: 04
Claimant: Appellant (1)**

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 1, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 16, 2008. The claimant did participate. The employer did participate through Amy Vandermeulen, administrative assistant.

ISSUE:

Is the claimant still employed by an educational institution between successive academic years?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant began working for the Dubuque Community School District as a bus driver on August 10, 1987. During some summers, she has worked during the period when summer school classes are offered to children. This academic year, due to budget cuts, there was no work for her during the summer. The claimant and the employer both agree that the claimant will return to work in the fall as a bus driver when the 2008-2009 academic year begins.

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 year.

Iowa Code § 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.

871 IAC 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 does have reasonable assurance of continued employment for the 2008-2009 school year. As a result, the claimant is not considered unemployed. While the claimant may have worked in the past during the summer, the claimant is still employed by an academic institution during successive academic terms and under the law, she is not entitled to unemployment benefits during the summer break.

DECISION:

The July 1, 2008, reference 01, decision is affirmed. The claimant does have reasonable assurance of returning to work the following academic year. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw