

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACY L DEMOSS
Claimant

APPEAL NO: 08A-UI-06662-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RAPIDS COMM SCHOOL DIST
Employer

OC: 09/09/07 R: 03
Claimant: Appellant (1)

Section 96.4-5 – Reasonable Assurance of Work

STATEMENT OF THE CASE:

Tracy L. DeMoss (claimant) appealed a representative's July 18, 2008 decision (reference 07) that concluded she was not eligible to receive benefits between academic school years or terms because she had reasonable assurance she would work for Cedar Rapids Community School District (employer) during the 2008/2009 academic school year just as she had worked during the 2007/2008 school year. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 5, 2008. The claimant participated in the hearing. Marlys Bitterman, a benefit specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible to receive benefits between academic school years when she has reasonable assurance of working for an educational institution in the same capacity that she worked the year before?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 9, 2007. One of her base period employers was Erb's Business Machines. The other base period employers were educational institutions. When the claimant established her claims, the Department concluded the claimant was monetarily eligible to receive benefits and included all her wages because she was not in-between terms or school years. When the claimant established her claim, she had been and was working for the employer as a substitute teacher.

The claimant began working for the employer as a substitute school teacher during the third quarter of 2006. During the 2007-2008 academic school year, the claimant worked as an on-call substitute teacher for the employer. The school year ended on June 6, 2008. The claimant reopened her claim the week of June 1, 2008.

The claimant has received paperwork to complete and send in so she can be included on the list to work as a substitute teacher for the employer in the 2008-2009 school year. The

employer would have the claimant work as a substitute teacher if she is on the list. As of the date of the hearing, the claimant has not returned the necessary paperwork to put her name on a list of potential substitute teachers.

REASONING AND CONCLUSIONS OF LAW:

In this case, when the claimant established her claim during the week of September 9, 2007, she had wages from both educational institutions and nonschool wages. To be monetarily eligible, the Department considered both her school and nonschool wages. When wages from school wages were included, the claimant had to have earned at least $\frac{1}{4}$ of the wages she earned from Erb's Business Machines during the second quarter of 2006 in another quarter or quarters of her base period. Iowa Code section 96.4-4.

When a claimant has a reasonable assurance of returning to work for an educational institution and perform services in both academic school years, she is not eligible to receive benefits between two successive academic school years. Iowa Code section 96.4-5. Since the claimant worked as on-call substitute teacher for the employer during the 2007/2008 academic year and has reasonable assurance of performing this same work during the 2008/2009 academic school year, she is not eligible to receive benefits between academic school years.

If a claimant has reasonable assurance of returning to work for an educational institution, wage credits from the educational institution cannot be used to determine the claimant's monetary eligibility. If a claimant has sufficient nonschool wage credits to be monetarily eligible, she may be eligible to receive benefits based only on nonschool wage credits. 871 IAC 24.52(6). In this case, the claimant does not have sufficient wages in her base period from nonschool wage credits to satisfy 871 IAC 24.52(6). Therefore, as of June 1, 2008, the claimant is not eligible to receive benefits.

DECISION:

The representative's July 18, 2008 decision (reference 07) is affirmed. The claimant is not eligible to receive benefits between academic school years because she has reasonable assurance of returning to work as a substitute teacher during the 2008/2009 school year and she is not monetarily eligible just based on nonschool wages. As of June 1, 2008, the claimant is not eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs