

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CASEY R VERSTEEGH**

Claimant

**APPEAL 20A-UI-06170-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES IND COMMUNITY SCH DIST**

Employer

**OC: 05/17/20**

**Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.5-3-a – Refusal to Accept Suitable Work  
Iowa Admin. Code r. 871-24.24(15)i – Suitable Work  
Iowa Code § 96.4(5) – Reasonable Assurance  
Iowa Admin. Code r. 871-24.51(6) – Reasonable Assurance  
Iowa Code § 96.3-7 – Overpayment  
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Des Moines Independent Community School District (employer) appealed a representative's June 10, 2020, decision (reference 02) that concluded Casey Versteegh (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 15, 2020. The claimant participated personally. The employer participated by Rhonda Wagoner, Benefits Specialist; Ellen Sarlat, Nutrition Operations Specialist; Rachel West After School Supervisor; and Heidi Brown, Before and After School Coordinator.

The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

**ISSUES:**

The issue is whether the claimant had a reasonable assurance of employment following a customary vacation, whether the claimant was overpaid benefits, and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is an educational institution. The claimant was hired on September 7, 2017, for two part-time positions Monday through Friday with the employer. He worked as a general worker in food service from 6:45 a.m. to 1:00 p.m. and as an enrichment coach from 2:30 p.m. to 5:00 p.m.

In October he spoke to his direct supervisor about working during spring, winter, and summer break. The direct supervisor spoke to the coordinator. The coordinator told the supervisor the claimant was eligible for work during those time periods. The supervisor told the claimant he was "good to go". The employer hired/scheduled the claimant to work for the winter break. The claimant told the employer he could not work during the winter break. The coordinator had not hired staff for the summer program.

Due to the pandemic, the employer ended claimant's enrichment coach hours prior to the end of the year but paid him through May 29, 2020. The claimant worked as a general worker in food service through May 29, 2020. No employees were hired for summer enrichment because the program was cancelled due to Covid-19. The employer offered the claimant a summer job in food service for twenty hours per week but he declined. The employer notified the claimant he had work available in the next school year, 2020 – 2021.

The claimant filed for unemployment insurance benefits with an effective date of May 17, 2020. His weekly benefit amount was determined to be \$285.00. The claimant received benefits of \$285.00 per week from May 31, 2020, to the week ending July 11, 2020. This is a total of \$1,710.00 in state unemployment insurance benefits after the separation from employment. He also received \$3,600.00 in Federal Pandemic Unemployment Compensation for the six-week period ending July 11, 2020. The claimant's base period was from January 2019, through December 2019. The claimant has only part-time wages in his base period of employment.

#### **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.

Iowa Admin. Code r. 871-24.52(9) provides in part:

(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

The claimant is employed by an educational institution. The claimant worked for the 2019-2020 academic year and is expected to work for the 2020-2021 academic year. The two seasons are successive terms. The claimant is between successive terms with an educational institution. The claimant was hoping to find extra work between terms. The work he was hoping to find did not materialize and the work that was available, he turned down.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he 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.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant received \$1,710.00 in unemployment insurance benefits. This was during the period of time the claimant has been determined to be ineligible to receive benefits. This

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

The final issue is whether the claimant is eligible for or overpaid Federal Pandemic Unemployment Compensation.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.-- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

The claimant has been disqualified from receiving regular unemployment insurance benefits. The claimant has received \$3,600.00 in Federal Pandemic Unemployment Compensation. If this decision becomes final or if you are not eligible for PUA, you will have an overpayment of benefits.

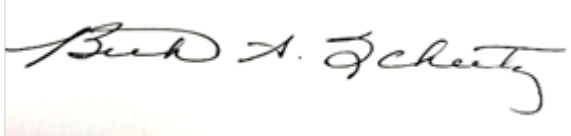
**DECISION:**

The June 10, 2020, (reference 02) unemployment insurance decision is reversed. The claimant did have reasonable assurance of returning to work following the established and customary vacation period. Benefits are denied effective May 17, 2020.

The claimant has received \$1,710.00 in unemployment insurance benefits and \$3,600.00 in Federal Pandemic Unemployment Compensation. This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you will have an overpayment of benefits.

*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>.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

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

July 23, 2020  
Decision Dated and Mailed

bas/scn