

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY WOLTERS

Claimant

APPEAL 20A-UI-07456-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STATE UNIVERSITY

Employer

OC: 05/17/20

Claimant: Appellant (1/R)

Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Admin. Code r. 871-24.51(6) – Reasonable Assurance

STATEMENT OF THE CASE:

Timothy Wolters (claimant) appealed a representative's June 25, 2020, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits for weeks between successive academic terms with Iowa State University (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 10, 2020. The claimant participated personally. The employer was represented by Heather Smith, Attorney at Law, and participated by Christy Kadner, Human Resources Specialist.

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

ISSUE:

The issue is whether the claimant is between successive terms with an educational institution and had reasonable assurance of employment.

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 January 1, 2010, as a tenured associate professor of history. He generally worked from mid-August to mid-May. As a tenured associate professor, the claimant knew that the position was available every year. The claimant worked the 2019-2020, academic year and planned to work the 2020-2021, academic year. The employer also planned for his return for the next term and sent him communications.

The claimant filed for unemployment insurance benefits with an effective date of May 17, 2020. His weekly benefit amount was determined to be \$518.00. The claimant received benefits of \$518.00 per week from May 17, 2020, to the week ending June 20, 2020. This is a total of \$2,590.00 in state unemployment insurance benefits after the separation from employment. He also received \$3,000.00 in Federal Pandemic Unemployment Compensation for the five-week period ending June 20, 2020.

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)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 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 had reasonable assurance his employment would continue following his established and customary vacation period. The claimant is between successive terms with an educational institution. Benefits are denied.

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.

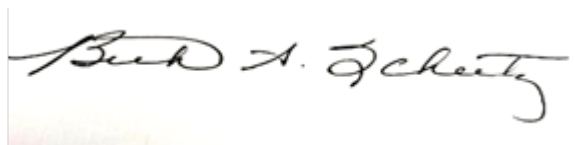
The claimant has received \$2,590.00 in state unemployment insurance benefits and \$3,000.00 in Federal Pandemic Unemployment Compensation. This decision denies benefits. The issue of the overpayment is remanded for determination.

DECISION:

The representative's June 25, 2020, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between successive terms with the employer.

The claimant has received \$2,590.00 in state unemployment insurance benefits and \$3,000.00 in Federal Pandemic Unemployment Compensation. This decision denies benefits. The issue of the overpayment is remanded for determination.

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>.



Beth A. Scheetz
Administrative Law Judge

August 17, 2020
Decision Dated and Mailed

bas/scn