

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KELLY A KOCH
Claimant

CEDAR RAPIDS COMM SCHOOL DIST
Employer

APPEAL 20A-UI-10973-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/20
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Able and Available for Work
Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Admin. Code r. 871-24.51(6) – Reasonable Assurance

STATEMENT OF THE CASE:

Kelly Koch (claimant) appealed a representative's August 27, 2020, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits for weeks between successive academic terms with Cedar Rapids Community School District (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 27, 2020. The claimant participated personally. The employer participated by Brittany Carney, 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 November 12, 2007, as a full-time para educator. The claimant knew the position followed the academic year when she was hired. Each year the employer planned on her return for the next year. The claimant worked the 2019-2020 academic year and was paid through June 1, 2020. The employer started paying the claimant for the 2020-2021, academic year on August 21, 2020.

The claimant received a document that said Senators Grassley and Ernst had been asked to "modify legislation to include (sic) unemployment benefit provisions for school year employees with no income in the summer...State law is clear – school year employees are not eligible to collect unemployment if they have a reasonable expectation of a job in the fall...There doesn't

seem to be harm in applying and letting the eligibility for benefits decision be made by Work Force Development.” The claimant thought the law had been changed to allow para educations unemployment insurance benefits in the summer. The only wages in her base period are from the employer.

The claimant filed for unemployment insurance benefits with an effective date of June 14, 2020. Her weekly benefit amount was determined to be \$362.00. The claimant received benefits of \$362.00 per week from June 14, 2020, to the week ending August 15, 2020. This is a total of \$3,258.00 in state unemployment insurance benefits after the separation from employment. She also received \$3,600.00 in Federal Pandemic Unemployment Compensation for the six-week period ending July 25, 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)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 expected to work for the 2020-2021 academic year. The two years are successive terms. The claimant filed for benefits between successive terms with an educational institution. The claimant had reasonable assurance that her employment would continue following the employer's established and customary summer vacation period. The claimant has no other non-educational institution wage credits in the base period. As such, benefits are denied.

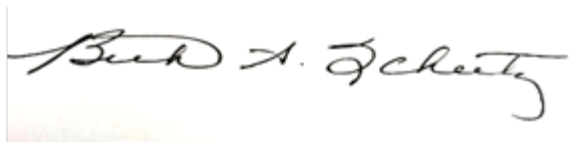
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act 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.

DECISION:

The representative's August 27, 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 issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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

October 29, 2020
Decision Dated and Mailed

bas/scn