

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES W COPPOC
Claimant

AMES COMMUNITY SCHOOL DISTRICT
Employer

APPEAL 18A-UI-07024-H2

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/27/18
Claimant: Appellant (1)**

Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Admin. Code r. 871-24.52(6) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 27, 2018, (reference 01) unemployment insurance decision that allowed benefits but removed the wages claimant earned with this employer finding he had reasonable assurance of continued employment with this employer during the next academic term. The parties were properly notified about the hearing. An in-person hearing was held in Des Moines, Iowa on August 2, 2018. Claimant participated. Employer participated through Justin Jeffs, Principal; (representative) Lisa Neggus, Human Resources Director; and Jennie Reisner, Superintendent. Claimant's Exhibits A (pages 1-85) and B (pages 1-242) were admitted into the record. Employer's Exhibit 1 (pages 1-33) was admitted into the record.

ISSUES:

Is the claimant eligible for benefits based upon earnings with other non-educational employers?

Does the claimant have reasonable assurance of continued employment?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as an educational assistant for the Ames Community School District for the 2017-2018 academic year.

In February 2018, the claimant sent an e-mail to his principal, Mr. Jeffs, indicating that he was not going to be accepting work for the next school year because he just did not make enough money and he needed affordable family health insurance. In late May 2018 Mr. Jeffs, still assuming the claimant was not going to be returning to work for the next school year, informed the human resources department so that they could begin the process of hiring a replacement. At no time did any of the employer's employees, demand or require the claimant to resign his job. Mr. Jeffs simply believed, based on the claimant's own comments that the claimant had decided not to continue working for the school district. At no time was the claimant ever told that he would not be offered employment for the upcoming 2018-2019 school year.

Mr. Jeffs communicated to Ms. Neggus, that the claimant was resigning. The claimant's May 24, 2018 e-mail to Mr. Jeffs stated: "Per your request, I am sending this separate email officially notifying you that I cannot afford to continue working for the ACSD past the end of the current contract." The employer reasonably believed that the claimant had decided not to accept continued employment with the district during the next school year.

When the notice of protest was sent to the district, Ms. Neggus filled it out on May 25, one day after the claimant's email indicating he would not be working for the district next year. She then honestly indicated to the agency that the claimant had voluntarily quit his employment.

On June 14, a meeting was held with the claimant, Mr. Jeffs and Ms. Neggus. At that time the claimant indicated he had not yet made up his mind about returning to the district next year. The claimant's resignation was considered rescinded and the claimant was given verbal assurance that he would be employed again in the same position if he so desired.

A telephone fact-finding interview was held on June 20. At that time Ms. Neggus accurately and honestly explained to the fact-finder that the claimant had withdrawn his resignation and that the claimant had reasonable assurance of continued employment in the next school year. While the claimant had not yet received his letter, he had been verbally told by both Ms. Neggus and Mr. Jeffs at the June 14 meeting that his employment would continue for the 2018-2019 school year if he wanted to continue working.

A follow up written offer of reasonable assurance was sent to the claimant on July 24. It contained the same details that had been communicated to him during the June 14 meeting.

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 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. (emphasis added).

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.

The employer is not required to offer a specific contract itemized for each specific employee that includes every detail of benefits or the employment in order to assure employees of continued employment during the next academic term or school year. Nor is the employer required to offer each employee the same type of reasonable assurance. The record is clear that the employer has always remained committed to continuing the claimant's employment. It was the claimant's own actions, his emails and comments to the effect that he was not going to be able to continue working due to the low pay, and because he needed affordable family health insurance coverage that reasonably led the employer to reasonably conclude that the claimant did not intend to return to work for the 2018-2019 academic school year. After a meeting held on June 14, 2018, the claimant cleared up the confusion he had created and told the employer he had not yet made a decision on whether he was going to return to work for the next school year. At that meeting the claimant was given clear verbal assurance that the employer wanted him to return to work in his same position for the next school year. The claimant was then given a follow up written reasonable assurance on July 24.

Once the meeting was held on June 14, at that time the claimant reasonably knew that he would have continuing employment at roughly the same wage, roughly the same hours, and with roughly the same benefits for the 2018-2019 school year. Even as of the date of the hearing on August 2, the claimant still had not told the employer whether he intends to return to work for the 2018-2019 school year.

Even if the reasonable assurance offer to the claimant was delayed, Iowa Admin. Code r. 871-24.52(12) provides:

Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met. **However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year shall be disqualified under the "between terms denial" provision.**

The claimant does have reasonable assurance of continued employment for the 2018-2019 school year. As a result, the claimant is not considered unemployed and benefits are denied based upon the between terms denial. However, the agency records establish claimant has other wages in his base period that were not earned from an educational institution:

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

Claimant had reasonable assurance that his employment would continue following the Ames Community School's academic 2017-2018 year or term as he was given both verbal and written notice of the employer's intention to maintain his employment. Therefore, claimant cannot use the wage credits earned from Ames Community School for the purposes of unemployment insurance benefit eligibility. However, claimant has other non-educational institution wage credits in the base period and is monetarily eligible for benefits based upon the wage credits earned with Iowa State University. Ames Community School District will not be charged for benefits paid for weeks claimed between successive years or terms. Benefits are allowed based upon claimant's non-educational institution wage credits with Iowa State University so long as the claimant is otherwise eligible.

DECISION:

The June 27, 2018, (reference 01) decision is affirmed. The claimant does have reasonable assurance of returning to work the following academic year. The Ames Community School District will not be charged for benefits paid to the claimant. However, claimant is eligible for benefits based on the remaining wages on his claim with Iowa State University, provided he remains otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs