

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LARA R OLSON
Claimant

APPEAL 17A-UI-06742-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SAYDEL COMMUNITY SCHOOL
DISTRICT**
Employer

**OC: 06/04/17
Claimant: Appellant (4R)**

Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 26, 2017, (reference 01) unemployment insurance decision that denied benefits based upon having reasonable assurance of continued employment. After due notice was issued, a telephone conference hearing was scheduled for July 20, 2017. Claimant participated. The employer did not respond to the hearing notice instruction and did not participate. Claimant's Exhibit A was received.

Does claimant have reasonable assurance of continued employment in the next school term or year?

Is the claimant partially unemployed and available for work, and if so, is the employer's account liable for potential charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time teacher associate for the 2016-2017, school year. She has reasonable assurance of returning to work on August 23, 2017, for the 2017-2018, school year. Claimant has other regular non-educational institution employment wage credits in the base period. She worked for Stadium Brands International, Inc. in the first through fourth quarters of 2016, the base period. She also worked there during the second quarter of 2017, which falls outside of the the base period. The record is unclear as to whether she is monetarily eligible for benefits based upon the wages from other than Saydel Community School District or Bondurant Farrar Community School District.

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 term or year but has other non-educational wages in the base period history.

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(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.

Iowa Admin. Code r. 871-24.52(13) provides:

Continuing supplemental (part-time) school employment after loss of nonschool employment. All employers, including employers of part-time workers are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account, *whether contributory or reimbursable*, pursuant to Iowa Code section 96.7(3)“a”(2). (Emphasis added.)

In this case, the claimant does have other non-educational institution wage credits in the base period. The claimant does have reasonable assurance of continued employment for the 2017 - 2018 school year but may be otherwise monetarily eligible according to base period wages.

DECISION:

The June 26, 2017, (reference 01) decision is modified in favor of the appellant. The claimant does have reasonable assurance of returning to work the following academic year or term but she has other wages in the base period. Benefits may be allowed, provided she is otherwise eligible.

REMAND: The monetary eligibility issue based upon wages from non-educational institution employers as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs