

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DOREEN S THOMPSON
Claimant

APPEAL NO. 11A-UI-09484-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST
Employer

**OC:06/05/11
Claimant: Appellant (1)**

Section 96.4-5-B – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated July 15, 2011, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 10, 2011. Claimant participated. The employer failed to respond to the hearing notice and did not participate in the hearing. The record consists of the testimony of Doreen Thompson.

ISSUE:

Whether the claimant has reasonable assurance of employment between academic terms.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant as worked as a part-time teacher's sub associate for the employer since the academic year that began in 2006. The claimant is an on-call employee. She does not have a contract. She is not guaranteed any hours and usually finds out if she will have hours two or three months after the school year begins. The claimant worked in the academic year that began in August 2010 and which ended on June 6, 2011. She has not been notified yet on whether she will have any hours for the school year that begins on August 25, 2011.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes that the claimant is not eligible for unemployment benefits effective June 5, 2011, as she has a reasonable assurance of employment with the same employer (an educational institution) between academic terms.

The claimant acknowledges she worked for an educational institution during the fall/spring term ending June 6, 2011. She is an on-call employee and is not guaranteed hours. She does not have a contract but usually finds out in a few months whether she will have any work. She has worked for the employer for on this basis since 2006. The administrative law judge concludes that the claimant is not eligible for benefits as she has reasonable assurance of employment with the same employer even though she may not know when and if those hours will be offered. The law does permit a retroactive payment of benefits if the claimant is not offered an opportunity to perform work. At this time, however, the law does not permit benefits to be awarded to the claimant.

DECISION:

The decision of the representative dated July 15, 2011, reference 02, is affirmed. The claimant is not eligible for unemployment benefits for weeks between successive years or terms with an educational institution.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css