

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIMBERLY A SCOTT
Claimant

WEST SIOUX COMMUNITY SCHOOL DIST
Employer

APPEAL 17A-UI-11975-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/18/17
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 13, 2017, (reference 04) unemployment insurance decision that allowed benefits based on earnings with other employers. The parties were properly notified about the hearing. A telephone hearing was held on December 11, 2017. Claimant participated. Employer participated through business manager Jake Vanderham. Superintendent Ryan Kramer attended the hearing on the employer's behalf. Claimant Exhibit A was admitted into evidence with no objection. Official notice was taken of the administrative record with no objection.

ISSUE:

Is the claimant eligible for benefits between academic years or terms?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a para professional (associate) for the West Sioux Community School District during the 2016 – 2017, school year. Claimant worked full-time during the school year for the employer as a para professional. The 2016 – 2017 school year ended on May 26, 2017.

On June 12, 2017, the employer mailed claimant a work agreement letter dated June 12, 2017. Claimant Exhibit A. The work agreement dated June 12, 2017 was the first notice the employer gave claimant that she was eligible to return to the employer for the 2017 – 2018 school year. The work agreement detailed that claimant would work the same hours, but she would receive an increase in pay. The employer did not verbally notify claimant that she was going to be offered a work agreement to return for the 2017 – 2018 school year. The employer's normal standard of practice is to only verbally notify the employees that are not coming back. The employer assumes that employees know they are coming back if they do not hear anything from the employer.

Claimant filed a claim for benefits with an effective date of June 18, 2017. Claimant has other regular non-educational institution employment wage credits in the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did have reasonable assurance of returning to work the following academic term or year, but has other non-education 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.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or 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 § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

The employer is an “education institution.” Iowa Admin. Code r. 871-24.51(1). Claimant worked for the employer during the 2016 – 2017 school year as a full-time para professional. As of the employer’s letter dated June 12, 2017, claimant had reasonable assurance of continued employment with the employer. See Claimant Exhibit A. As a result, claimant is not considered unemployed.

Furthermore, claimant does have other non-educational institution wage credits in the base period. Although claimant did have reasonable assurance of continued employment for the 2017-2018, school year, she may be otherwise monetarily eligible according to base period wages.

DECISION:

The November 13, 2017, (reference 04) unemployment insurance decision is affirmed. Claimant did 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 based upon other non-educational insured wages in the base period, provided claimant is otherwise eligible. The employer’s account (WEST SIOUX COMMUNITY SCHOOL DIST, account number 103468-000) shall not be charged.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs