

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELE L FULLER
Claimant

APPEAL NO: 11A-EUCU-00115-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/12/09
Claimant: Appellant (5)

Iowa Code § 96.3(5)b – Training Extension Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 6, 2011 determination (reference 06) that denied her request for training extension benefits as of December 26, 2010, because of her course of study. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge finds the claimant is not eligible to receive training extension benefits.

ISSUE:

Is the claimant eligible to receive training extension benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits after Meswaki Casino terminated her for absenteeism. The claimant worked as a cocktail waitress at Meswaki Casino. The claimant established a claim for benefits during the week of July 12, 2009.

The claimant started receiving Emergency Unemployment Compensation benefits during the week of November 7, 2009. She exhausted these benefits the week ending May 15, 2010. The claimant started going to school in August 2010 to become a licensed practical nurse and then a registered nurse.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3(5)b(1) provides that a person who has been separated from a declining occupation or who has been involuntarily separated from employment as a result of a permanent reduction of operations and who is in training with the approval of the director (DAT training) or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105-220, (WIA training) at the time regular benefits are exhausted, may be eligible for training extension benefits.

The regulations provide in part that:

The individual must be enrolled in the training no later than the end of the benefit year which included the separation which made the individual eligible for training benefits or the week in which any federal benefit program based upon that benefit year is exhausted. Enrolled before the end of the benefit year means the individual has taken all steps available for entry into the training and has secured a reserved position in the training class. The individual has paid tuition or will pay tuition when the training starts. The training class may begin after the end of the benefit year. The application for training benefits must be received 30 days after the end of the benefit year or 30 days after federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

871 IAC 24.40(4) and (5).

The claimant's request for training benefits is denied because her separation from Meswaki Casino was not because of a declining occupation nor was she involuntarily separated from employment as a result of a permanent reduction of operations. She was discharged for absenteeism. Also, she filed her application for training extension benefits late. Since the reasons for the claimant's employment separation from Meswaki Casino do meet the eligibility requirements to receive training extension benefits, the claimant's request for training extension benefits must be denied.

DECISION:

The representative's January 6, 2011 determination (reference 06) is modified, but the modification has no legal consequence. The claimant's request to training extension benefits is denied because the reasons for her employment separation from Meswaki Casino do not satisfy the eligibility requirements to receive training extension benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css