

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA J AULT
Claimant

APPEAL NO: 11A-EUCU-00815-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/18/09
Claimant: Appellant (1)**

Iowa Code § 96.3(5)b – Training Extension Benefits
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed a representative's June 14, 2011 determination (reference 03) that granted her request for training extension benefits May 29 through October 15, 2011. The claimant participated in the hearing. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

Is the claimant eligible to receive training extension benefits after October 15, 2011?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of October 18, 2009. She exhausted her regular unemployment insurance benefits and Emergency Unemployment Compensation benefits the week ending May 28, 2011. She received Training Extension Benefits May 29 through October 15, 2011.

A representative's June 14, 2011 determination (reference 03) granted the claimant's request for Training Extension Benefits for May 29 through October 15, 2011, which was based on the claim she established during the week of October 18, 2009. The June 14 determination informed the claimant that if she disagreed with the determination she had to file an appeal on or before June 24, 2011. The claimant filed an appeal on November 7 and requested the remaining balance of her Training Extension funds after October 15, 2011.

REASONING AND CONCLUSIONS OF LAW:

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's determination is mailed to the parties' last-known address, files an appeal from

the determination; it is final. Benefits shall then be paid or denied in accordance with the representative's determination. Iowa Code § 96.6(2). Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The Iowa Supreme Court has ruled that appeals from unemployment insurance determinations must be filed within the time limit set by statute and the administrative law judge has no authority to review a determination if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal was filed after the June 24, 2011 deadline for appealing expired.

The claimant did not establish that her failure to file a timely appeal was due to any Agency error or misinformation or delay or other action of the United States Postal Service, which under 871 IAC 24.35(2) would excuse the delay in filing an appeal. Since the claimant did not establish a legal excuse for filing a late appeal, the Appeals Section does not have jurisdiction to make a decision on the merits of the appeal.

In the alternative, if the claimant had a legal excuse for filing a late appeal, her training extension benefits cannot be extended after October 15, 2011.

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:

Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; **and benefits shall cease no later than one calendar year following the end of the benefit year in which the individual became eligible for the benefits.** (Emphasis supplied.)

In accordance with the regulation, the claimant's training benefits must end on October 15, 2011. Why? Because the claimant is eligible for the training extension benefits on a claim she established during the week of October 18, 2009. Even if the claimant has not completed her training and may have some training extension funds available, the law does not allow claimants to receive training extension benefits more than a calendar year following the end of the benefit year that she became eligible for the benefits. The claimant's benefit year that she established October 18, 2009, ended on October 16, 2010, and a year later is October 15, 2011.

DECISION:

The representative's June 14, 2011 determination (reference 03) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Section does not have jurisdiction to address the merits of her appeal. This means the claimant is not eligible to receive Training Extension Benefits after October 15, 2011.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css