

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

YUNXIA SHANG
Claimant

APPEAL 18A-UI-05238-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 11/19/17
Claimant: Appellant (1R)

Iowa Code § 96.3(5)b – Training Extension Benefits
Iowa Admin. Code r. 871-24.40 Training Extension Benefits

STATEMENT OF THE CASE:

Yunxia Shang (claimant) appealed the April 27, 2018, reference 03, unemployment insurance decision that denied training extension benefits. After due notice was issued, a telephone hearing was held on May 24, 2018. The claimant participated. Mandarin interpretation was provided by Yen (employee number 6513) from CTS Language Link. The administrative law judge took official notice of the administrative record, including fact-finding documents.

ISSUE:

Is the claimant eligible to receive training extension benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant resides in Johnson County which is Region 10.¹ The claimant was involuntarily separated from full-time employment with Sushiya, LLC (account number 544713) as a Restaurant Manager in December 2016. She was not voluntarily separated from a declining occupation² or involuntarily separated because of a plant closure in a permanent reduction of operations.

The claimant filed her claim for benefits effective November 19, 2017. Her base period also includes Red Ginger Sushi Bistro (account number 575564). The claimant last received wages from that employer in the fourth quarter of 2017. Whether the claimant is eligible for unemployment insurance benefits based on this separation has not yet been investigated or adjudicated by the Benefits Bureau.

¹ See <https://www.iowaworkforcedevelopment.gov/regional-profiles> (last accessed May 24, 2018).

² See <https://www.iowaworkforcedevelopment.gov/declining-occupations-region-2010-2020> (last accessed May 24, 2018).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible to receive training extension benefits.

Iowa Code § 96.3(5)b provides:

b. Training Extension Benefits.

(1) An individual 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 at the last place of employment and who is in training with the approval of the director or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105-220, at the time regular benefits are exhausted, may be eligible for training extension benefits.

(2) A declining occupation is one in which there is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity, and the lack of employment opportunities is expected to continue for an extended period of time, or the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training extension benefit amount shall be twenty-six times the individual's weekly benefit amount and the weekly benefit amount shall be equal to the individual's weekly benefit amount for the claim in which benefits were exhausted while in training.

(4) An individual who is receiving training extension benefits shall not be denied benefits due to application of section 96.4, subsection 3, or section 96.5, subsection 3. However, an employer's account shall not be charged with benefits so paid. Relief of charges under this paragraph "b" applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(5) In order for the individual to be eligible for training extension benefits, all of the following criteria must be met:

(a) The training must be for a high-demand occupation or high-technology occupation, including the fields of life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, and environmental technology. "High-demand occupation" means an occupation in a labor market area in which the department determines work opportunities are available and there is a lack of qualified applicants.

(b) The individual must file any unemployment insurance claim to which the individual becomes entitled under state or federal law, and must draw any unemployment insurance benefits on that claim until the claim has expired or has been exhausted, in order to maintain the individual's eligibility under this paragraph "b". Training extension benefits end upon completion of the training even though a portion of the training extension benefit amount may remain.

(c) The individual must be enrolled and making satisfactory progress to complete the training.

Iowa Admin. Code r. 871-24.40 provides:

Training extension benefits.

(1) The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual's employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

(2) The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

(3) The course or courses must be full-time enrollment for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and at workforce centers.

a. High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

b. A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

c. A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

d. A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

e. A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

(4) The application for training benefits must be received within 30 days after state or 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.

(5) 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 the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the benefits have been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Code Supplement section 96.3(5).

The claimant is not eligible for training extension benefits based on part-time employment. Therefore, her last full-time separation will be addressed when determining whether she is eligible for training extension benefits. The claimant does not meet the eligibility requirements for training extension benefits because she was not voluntarily separated from a declining occupation or involuntarily separated due to a permanent reduction of operations. The claimant's occupation is considered a declining occupation in her region; however, only a person who is laid off due to a lack of work or voluntarily quits a declining occupation with good cause attributable to the employer is eligible for training extension benefits. Iowa Admin. Code r. 871-24.40(1). The claimant was not laid off due to a lack of work nor did she voluntarily quit with good cause attributable to the employer. She was discharged from employment but not for willful or deliberate misconduct. While the claimant's separation from her full-time employer qualified her for unemployment insurance benefits, it does not qualify her for training extension benefits. Therefore, while the claimant's desire for additional education is understandable and admirable, training extension benefits must be denied.

DECISION:

The April 27, 2018, reference 03, representative's decision is affirmed. The claimant is not eligible to receive training extension benefits.

REMAND:

Whether the claimant is eligible for unemployment insurance benefits based on her separation from part-time employment with Red Ginger Sushi Bistro (account number 575564) is remanded to the Benefits Bureau for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn