BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building Fourth floor Des Moines, Iowa 50319

ROBERT	A ENGLE
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Claimant

HEARING NUMBER: 16B-UI-05506

EMPLOYMENT APPEAL BOARD DECISION

NOTICE

THIS DECISION BECOMES FINAL unless (1) a request for a REHEARING is filed with the Employment Appeal Board within 20 days of the date of the Board's decision or, (2) a PETITION TO DISTRICT COURT IS FILED WITHIN 30 days of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-4

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

We adopt the Administrative Law Judge's decision, and now merely provide additional explanation to the Claimant. The Claimant states he was on approved training, and then received approval to go on training extension benefits. This does not, however, affect this case.

While on department approved training "[a]n otherwise eligible individual shall not be denied benefits ...with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection **3** of this section relating to availability for work, and an active search for work or the provision of section **96.5**, subsection 3, relating to failure to apply for or a refusal to accept suitable work." Iowa Code \$96.4(6)(a)(emphasis added) see also 871 IAC 24.39(2). Training extension benefits similarly provides that the availability, work search, and job refusal provisions do not apply: "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." Iowa Code \$96.3(5)(b)(4) (emphasis added) see also 871 IAC 24.40. But neither provision mentions being exempt from the requirement of earning \$250 before being eligible to establish a new benefit year found in Iowa Code \$96.4(4)(c). The fact that other specific exceptions are made implies that an exception for \$96.4(4)(c) is not included. Further there is nothing in the rules or statute setting out the \$250 earning requirement which suggest that it no longer applies while on approved training or for training extension benefits. See Iowa

Code 96.4(4)(c) and 871 IAC 24.31. The exceptions refer to subsection 3 – not four – of section 96.4 and subsection 5 of chapter 96, not subsection four. The exceptions that are stated refer to eligibility and disqualification exceptions which apply during the current benefit year, but say nothing at all about modifying the conditions for becoming eligible for a *subsequent* benefit year.

It is true that the \$250 requirement can be difficult to meet while in training, but frankly it is no less difficult for people who are in school but who have exhausted benefits because they are unable to find a job. Often we have seen such people complain that if they could earn \$250 then they wouldn't need to establish a second benefit year. A similar argument could be made for those on training benefits. Both such arguments, however, take exception to the *wisdom* of the statutory provision, and do not change the fact that there is such a requirement. We are bound by the plain words of the statute and there is nothing in the Code stating that the \$250 is waived for those on approved training. The decision of the Administrative Law Judge is thus affirmed.

Kim D. Schmett

Ashley Koopmans

James M. Strohman