

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLI S MOEHN
Claimant

APPEAL NO: 13A-UI-06456-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/16/12
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 May 15, 2013 determination (reference 05) that denied her request for training extension benefits. The claimant participated at the June 24, 2013 hearing. Based on the evidence, the claimant's arguments, 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?

Should the claimant's request for training extension benefits be granted or denied?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 16, 2012. The claimant established this claim after she was laid off from work at Reif Oil Co. The claimant worked over two years for Reif Oil Co. She worked part time or 16 to 25 hours a week during this employment.

The claimant went back to college in January 13, 2013. She plans to obtain a B.A. degree and teach elementary students or work as an art teacher. The claimant has satisfactorily completed the courses she has taken. The claimant anticipates she will graduate in six years. The claimant received Department Approved Training status to attend school until mid-May 2013.

On May 15, 2013 a determination was mailed to the claimant. In addition to denying her request for training extension benefits, the determination also informed the claimant that she had to file an appeal or have an appeal postmarked on or before May 25, 2013. The claimant has a lot of stress in her personal life and she forgets to pick up her mail for days. When the claimant picked up her mail on May 30, she read the May 15 determination. She immediately went to her local Workforce office and filed an appeal that same day.

REASONING AND CONCLUSIONS OF LAW:

The law states that an unemployment insurance determination is final unless a party appeals the determination within ten days after the determination was mailed to the party's last-known address. Iowa Code § 96.6(2). The Iowa Supreme Court has ruled that appeals must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision 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 appeal was filed after the May 25, 2013 deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file a timely appeal. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). Since the claimant immediately went to her local Workforce office on the same day she picked up her mail and read the determination, she has established that she did not have a reasonable opportunity to file a timely appeal when she did not know about the May 15, 2013 determination until May 30. Based on the facts of this case, the claimant's appeal will be accepted. The Appeals Section has jurisdiction to consider the merits of her appeal.

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.

There are specific requirements a claimant must meet before she qualifies for training extension benefits: 1) The claimant must meet the minimum requirements for unemployment benefits; 2) the claimant's separation must have been from **full time** work in a declining occupation or the claimant must have been involuntarily separated from **full time** work due to a permanent reduction of operations; 3) the claimant must be in a job training program that has been approved by the Department; 4) the claimant must have exhausted all regular and emergency unemployment benefits; 5) the claimant must have been in the training program at the time regular benefits are exhausted; 6) the training must fall under one of the following three categories: a) it must be for a high demand or high technology occupation as defined by Iowa Workforce Development; b) it must be for a high-tech occupation or training approved under the Workforce Investment Act (WIA); c) it must be an approved program for a GED; and 7) the claimant must be enrolled and making satisfactory progress towards completing the training. Iowa Code § 96.3(5)b(5).

The evidence indicates the claimant's only base period employer is Reif Oil Company. Since she only worked part time for Reif Oil Company, her employment separation does not satisfy the requirement for her to be eligible to receive training extension benefits. Based on her part-time employment with Reif Oil Company, the claimant is not eligible to receive training extension benefits.

DECISION:

The representative's May 15, 2013 determination (reference 05) is affirmed. The claimant's appeal is accepted because she did not have a reasonable opportunity to file an appeal until she actually received the determination. Therefore, the Appeals Section has jurisdiction to address the merits of the claimant's appeal. The claimant is not eligible to receive training extension benefits because she only worked part time, not full time. Her request to receive training extension benefits is denied.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs