

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMAR I MAHMUD**  
Claimant

**APPEAL NO. 14A-11290-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/03/14  
Claimant: Appellant (1)**

Iowa Code § 96.3-5-b(1) – Training Extension Benefits  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 5, 2011, reference 04, that concluded he was not eligible for training extension benefits. A telephone hearing was held on November 19, 2014. The claimant participated in the hearing. Exhibits A and B were admitted into evidence. Official notice is taken of the declining occupations listed at <http://www.iowaworkforce.org/trainingextensionbenefits/DecliningOccupationsByRegion.pdf>. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

**ISSUE:**

Is the claimant eligible for training extension benefits?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits effective August 3, 2014. He had been discharged from his job as a welder with UTC Aerospace on August 1. His job as a welder is not a declining occupation and his separation from UTC Aerospace was not due to a permanent reduction of operations.

The claimant applied for approved training to receive regular unemployment insurance benefits while attending school at Des Moines Area Community College. He is in the automotive mechanic program and he will finish the program in August 2015. He also applied for training extension benefits (TEB) to continue to received unemployment insurance benefits after he exhausted his regular unemployment insurance benefits.

An unemployment insurance decision was mailed to the claimant's last-known address of record on September 5, 2014. The decision concluded the claimant was not eligible for TEB and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by September 15, 2014.

The claimant received the decision within the ten-day period for appealing the decision. He filed a written appeal on October 30, 2014, which is after the time period for appealing had expired. The claimant delayed in filing his appeal because he received a decision around the same time saying he had been approved for department approved training and was confused by the two decisions. Later he was informed that they were two different programs and he would have to appeal the September 5, 2014 to received benefits after he exhausted his regular unemployment insurance benefits.

#### **REASONING AND CONCLUSIONS OF LAW:**

The first issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed his appeal late because he received two decisions one for approved training and the other for training extension benefits. If the claimant was confused by the two decisions, he should have asked for assistance. The claimant had a reasonable opportunity to file a timely appeal.

The failure to file a timely appeal was not 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 appeal was not filed timely, there is no jurisdiction to make a decision on the merits of the appeal.

In the alternative, even if the claimant's appeal was accepted as timely, he would not be eligible for training extension benefits as explained below.

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.

He did not separate from a declining occupation or involuntarily separate due to a permanent reduction in operations. Declining occupations in Iowa are listed on the IWD website at <http://www.iowaworkforce.org/trainingextensionbenefits/DecliningOccupationsByRegion.pdf>. As a result, the claimant is not eligible for TEB.

**DECISION:**

The unemployment insurance decision dated September 5, 2011, reference 04, is affirmed.  
The claimant is not eligible for training extension benefits.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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