

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 05A-UI-11720-CT
OC: 09/25/05 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(6)a – Division Approved Training

STATEMENT OF THE CASE:

Michael Staab filed an appeal from a representative's decision dated November 7, 2005, reference 03, which denied his request for Department Approved Training. After due notice was issued, a hearing was held by telephone on December 5, 2005. Mr. Staab participated personally and was represented by Deborah McKittrick, Attorney at Law. Exhibits A, B, and C were admitted on Mr. Staab's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Staab last worked on September 30, 2005, when his employment with Allied Insurance ended. He was with the company for approximately four

years as a claims representative. He handled claims both in the office and in the field. During his employment with Allied Insurance, Mr. Staab received various certificates for completion of training related to the insurance industry.

Mr. Staab has 13 years of experience as a landscape designer. He graduated from Montana State University in 1987 with a Bachelor of Science degree in horticulture and a minor in landscaping.

Mr. Staab is not attending a training program at a school. He has purchased materials to study to take the test to become an insurance agent. The test is given monthly and he intends to take it in February of 2006. Mr. Staab seeks Department Approved Training (DAT) so that he may devote his full efforts to studying for the test.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Staab should be allowed DAT. The purpose of DAT is to exempt an individual from seeking work so that the individual may pursue training that will upgrade skills to enable the individual to return to the labor force. 871 IAC 24.39(96). The administrative law judge construes this provision as presupposing that the individual does not currently have skills that would enable him to find work. Mr. Staab has at least four years of experience handling insurance claims. Given the number of insurance companies in the Des Moines area, it seems unlikely that Mr. Staab's skills would not be marketable. Moreover, he has 13 years of experience in landscape design. The administrative law judge believes his experience in the area is likewise a marketable asset.

It does not appear to the administrative law judge that DAT was intended to cover time an individual intends to spend studying without being enrolled in a course of study. The provisions of 871 IAC 24.39(1) speaks in terms of an individual who wants to receive job insurance benefits "while attending school for training or retraining." This section also requires that the individual identify the educational establishment where the training would be received. 871 IAC 24.39(1)a. Mr. Staab's study is not through any school or training establishment. The administrative law judge appreciates that preparation for the insurance agent test will take a substantial amount of time on Mr. Staab's part and will limit his ability to seek work. However, the test is given monthly and he has set his own timetable as to when he will take the test. The amount of time he has to devote each week to studying is controlled by his decision as to when to take the test.

After considering all of the evidence, the administrative law judge concludes that Mr. Staab is not eligible for DAT, as he does not have obsolete skills and is not attending training at an educational institution.

DECISION:

The representative's decision dated November 7, 2005, reference 03, is hereby affirmed. Mr. Staab's request for DAT is denied.

cfc/kjw