

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA L LEIBOLD
Claimant

APPEAL NO: 15A-UI-02190-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/19/14
Claimant: Appellant (1)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 5, 2015 (reference 05) determination that denied her request for training extension benefits. The claimant participated at the March 24 hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant did not file a timely appeal and is not eligible to receive training extension benefits.

ISSUES:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

Is the claimant eligible to receive training extension benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of October 19, 2014. She established this claim after Rockwell Collins discharged her from a full-time operator's job for attendance issues when her son was sick. The claimant exhausted her unemployment insurance benefits during the week ending February 21, 2015.

The claimant decided to go to school finish a health care degree. The claimant wants to work in an office as a health information technician or a billing code administrator. The claimant started classes on January 13, 2015 to obtain this degree. She anticipates she will finish classes in two years.

The claimant applied for training extension benefits. She received Department Approved Training status to go to school. A February 5, 2015 determination denied the claimant training extension benefits. The determination informed the claimant she had to appeal on or before February 15, 2015.

The claimant received the February 5 determination by February 10, 2015. The claimant became involved in personal issues, school and sick children, and forgot about appealing the February 5 determination. When the claimant appealed on February 18, she realized she was filing a late appeal.

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 February 17, 2015 deadline for appealing expired. Since February 15 was a Sunday and February 16 was a legal holiday, President's Day, the deadline to appeal was automatically extended to February 17, 2015.

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). The claimant had a reasonable opportunity to file a timely appeal, but did not.

The claimant's 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) excuses a delay in filing an appeal. The claimant did not file a timely appeal because of personal family issues. Unfortunately, her reasons for filing a late appeal does not amount to a legal excuse for filing a late appeal. The Appeals Bureau does not have any legal authority to make a decision on the merits of her appeal. This means the determination denying the claimant's request for training extension benefits cannot be granted.

In the alternative, if the claimant had filed a timely appeal, her request for training extension benefits would still be denied.

A claimant is eligible for training extension benefits when she 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.

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.

Iowa Code § 96.3(5)b.

The claimant does not meet the eligibility requirement to receive training extension benefits because her employment separation from Rockwell Collins employment was not from a declining occupation or due to a permanent reduction of operations. She was not separated from seasonal employment. Since the claimant was not working in a declining occupation, her request for training extension benefits is denied.

The training extension benefits program is different from Department approved training. A claimant may receive Department Approved Training and receive **regular** unemployment insurance benefits. Department Approved Status allows a claimant to go to school and not be required to look for work while going to school. Training extension benefits are benefits or money a claimant may receive while attending school and after a claimant has exhausted her regular unemployment insurance benefits and meets all other eligibility requirements of the training extension program.

DECISION:

The representative's February 5, 2015 (reference 05) determination is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Bureau does not have jurisdiction to address the merits of the claimant's appeal. This means the claimant remains ineligible to receive training extension benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can