IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

ETHAN N PHUNG
Claimant

**IOWA WORKFORCE
  DEVELOPMENT DEPARTMENT**

APPEAL NO. 15A-UI-05856-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/27/14
Claimant: Appellant (1)**

Section 96.3-5-b – Training Extension Benefits

STATEMENT OF THE CASE:

Ethan Phung (claimant) appealed a representative's May 15, 2015, decision (reference 03) that concluded he was not eligible for training extension benefits. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was scheduled for June 30, 2015. The claimant participated personally.

ISSUE:

The issue is whether the claimant is eligible to receive training extension benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was involuntarily separated from employment on July 30, 2014, from Belle/Sioux City Riverboat, where he was employed as a full-time dealer. The separation occurred when the casino went out of business. The claimant filed a claim for benefits with an effective date of July 27, 2014. The claimant exhausted his regular and extension unemployment insurance benefits. On May 12, 2015, the application for TEB was submitted, which was before the end of the benefit year. The claimant started going to school on September 9, 2014, at the Iowa School of Beauty to receive a cosmetology license and expects to complete that training December 1, 2015. The claimant's area of study is for an occupation that is not considered to be a high demand occupation (HDO) as defined by Iowa Workforce Development (IWD) in Region Twelve. It is not a high-tech occupation or training approved under the Workforce Investment Act (WIA). He is making satisfactory progress.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is not eligible for training extension benefits at this time.

Iowa Code § 96.3(5)a-b provides:

a. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

b. Training Extension Benefits.

(1) An individual 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 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.

(2) 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.

(3) The training extension benefit amount shall be twenty-six times the individual's weekly benefit amount and the weekly benefit amount shall be equal to the individual's weekly benefit amount for the claim in which benefits were exhausted while in training.

(4) An individual who is receiving training extension benefits shall not be denied benefits due to application of § 96.4, subsection 3, or § 96.5, subsection 3. However, an employer's account shall not be charged with benefits so paid. Relief of charges under this paragraph "b" applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

(5) In order for the individual to be eligible for training extension benefits, all of the following criteria must be met:

(a) The training must be for a high-demand occupation or high-technology occupation, including the fields of life sciences, advanced manufacturing, biotechnology, alternative

fuels, insurance, and environmental technology. "High-demand occupation" means an occupation in a labor market area in which the department determines work opportunities are available and there is a lack of qualified applicants.

(b) The individual must file any unemployment insurance claim to which the individual becomes entitled under state or federal law, and must draw any unemployment insurance benefits on that claim until the claim has expired or has been exhausted, in order to maintain the individual's eligibility under this paragraph "b". Training extension benefits end upon completion of the training even though a portion of the training extension benefit amount may remain.

(c) The individual must be enrolled and making satisfactory progress to complete the training.

There are specific requirements before a claimant may qualify 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).

In the case herein, the claimant did not establish the above criteria. Hairstylist is not considered by IWD to be for a high demand occupation (HDO) or a high-tech occupation or training pursuant to the Workforce Investment Act (WIA). The claimant is not in a GED approved program. Therefore, training extension benefits must be denied.

DECISION:

The representative's May 15, 2015, decision (reference 03) is affirmed. The claimant is not eligible to receive training extension benefits.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

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