

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIE FREEMAN
Claimant

APPEAL NO. 10A-EUCU-00296-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 12/28/08
Claimant: Appellant (1)**

Section 96.3-5-b(1) – Training Extension Benefits
Section 96.6-2 – Timeliness of Appeal
871 IAC 24.35(2) – Appeal Delay

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated March 23, 2010 reference 02 that concluded he was not eligible for training extension benefits. A telephone hearing was held on May 21, 2010. The claimant participated in the hearing. Exhibit A was admitted into evidence.

ISSUES:

Whether claimant filed a timely appeal.

Whether claimant is eligible for training extended benefits.

FINDINGS OF FACT:

The department mailed its decision to the claimant's address of record on March 23, 2010. The decision contains a warning the appeal deadline date is April 2. The claimant mailed his appeal by the deadline date in Waycross, Georgia, which forwarded to Jacksonville, Florida for processing. The appeal envelope is postmarked on April 8.

The claimant filed a new claim for unemployment insurance benefits effective December 28, 2008. The claimant exhausted his regular benefits the week ending May 30, 2009, and he began receiving extended (EUC) benefits. The claimant received EUC (Emergency Unemployment Compensation) benefits from May 31, 2009 through March 13, 2010.

A Georgia Department of Labor representative faxed a claimant application for training extension benefits to the department on March 19, 2010 for him to take auto mechanic classes at Okefenokee Technical College for the spring quarter of 2010.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

871 IAC 24.35(2) provides:

(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the department that the delay in submission was due to department error or misinformation or to delay or other action of the United States postal service or its successor.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The department shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to department error or misinformation or delay or other action of the United States postal service or its successor, the department shall issue an appealable decision to the interested party.

The claimant filed a timely appeal by mailing it in Waycross, Georgia, by the deadline date. The delay was the forwarding and processing of the US Postal Service, which sent the envelope for processing in Jacksonville, Florida.

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.

The claimant is not eligible for training extension benefits, because he was not in DAT or WIA training at the time his regular benefits were exhausted in May 2009, nor at the end of his regular benefit year, December 27, 2009. The deadline dates are set by federal law and cannot

be waived by the state of Iowa. The claimant did not make an application for training until March 2010.

DECISION:

The department decision dated March 23, 2010 reference 02, is affirmed. The claimant is not eligible for training extension benefits.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw