

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

REBECCA A STANGELAND

Claimant

APPEAL NO. 19R-UI-08267-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/19/19

Claimant: Appellant (1)

Section 96.3-5-b – Training Extension Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's August 14, 2019, decision (reference 03) that denied training extension benefits. After due notice was issued, a telephone hearing was held on November 13, 2019, before Administrative Law Judge Julie Elder. The claimant participated in the hearing. The administrative law judge took official notice of the administrative record.

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 resides in Black Hawk county which is in Region Seven. She was involuntarily separated from employment on May 23, 2019, from Rydell Chevrolet, where she was employed as a full-time parts specialist. The separation was not from a declining occupation, due to a permanent reduction in force, or from a seasonal occupation.

The claimant filed a claim for benefits with an effective date of May 19, 2019. The claimant has not yet exhausted her regular unemployment insurance benefits. On August 7, 2019, the claimant's application for TEB was submitted, which was before the end of the claimant's benefit year. She is not currently enrolled in Department Approved Training (DAT).

The claimant started school August 13, 2019, at University of Phoenix online to receive a psychology degree and expects to complete that training in 2023. 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 Seven. It is not a high-tech occupation or training approved under the Workforce Investment Act (WIA). The claimant 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 section 96.4, subsection 3, or section 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 section 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.

Iowa Admin. Code r. 871-24.40 provides:

Training extension benefits.

(1) The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual's employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

(2) The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

(3) The course or courses must be full-time enrollment for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and workforce centers.

a. High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

b. A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

c. A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

d. A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

e. A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

(4) The application for training benefits must be received 30 days after state or federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

(5) Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than one calendar year following the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the claim has expired or has been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Code Supplement section 96.3(5).

For an individual to be eligible to receive training extension benefits the individual must be separated from employment in a declining occupation, involuntarily separated due to permanent reductions, or separated from a seasonal occupation. The claimant does not meet these requirements. Therefore, the claimant is not eligible to receive training extension benefits. Iowa Code section 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.

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 established criteria 1, 5 and 7, but did not establish the remaining criteria as stated above. Consequently, the claimant does qualify for training extension benefits.

The claimant does not meet the eligibility requirements for unemployment benefits because although she will be in training at the time regular benefits are exhausted, her claim has not expired yet, she will exhaust benefits during training, is not separated from a declining occupation or permanent reduction of operations, and the training in which claimant is engaged is not determined by IWD to be a high demand occupation (HDO). Therefore, training extension benefits must be denied.

The claimant does not meet the eligibility requirements for training extension benefits because she was not voluntarily separated from a declining occupation or involuntarily separated due to a permanent reduction of operations and she was not enrolled in training with the approval of the director, otherwise known as DAT, or training through WIOA. The claimant may become eligible for training extension benefits in the future if she becomes enrolled in DAT and is enrolled in DAT at the time her benefits are exhausted.

DECISION:

The representative's August 14, 2019, decision (reference 03) is affirmed. The claimant is not eligible to receive training extension benefits.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn