

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**GREGG D GOPLERUD**  
Claimant

**APPEAL 18A-UI-00072-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT**

**OC: 1/22/17  
Claimant: Appellant (2)**

19 U.S.C. § 2318 – Reemployment Trade Adjustment Assistance Program  
20 CFR Part 617

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 20, 2017, unemployment insurance decision that denied Reemployment Trade Adjustment Assistance benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2018. Claimant participated. Iowa Workforce Development participated through workforce trade coordinator Nina Gotta and administrative assistant Patricia Granneman. Exhibits 1 through 3 were received.

**ISSUE:**

Is the claimant eligible to receive benefits under the Trade Act?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was separated from a trade-affected employer in February 2015. Claimant applied for Reemployment Trade Adjustment Assistance (RTAA). His application was approved on January 31, 2017. Iowa Workforce Development (IWD) issued a Determination of Eligibility for Reemployment Trade Adjustment Assistance. The determination states that claimant is eligible for RTAA benefits and that the benefit period began effective June 22, 2016, and ends on June 22, 2018. The determination further states:

**RTAA/ATAA wage supplement will be paid until your maximum wage supplement in benefits has been received, or when the RTAA/ATAA Benefit Period Ends, whichever occurs first.**

Claimant submitted pay stubs and IWD issued retroactive benefits for weeks in which claimant worked at qualifying reemployment in 2016.

Claimant lost his reemployment in January 2017, and therefore discontinued submitting paystubs to IWD as he was not claiming benefits. Claimant gained reemployment in

August 2017, but did not immediately contact IWD because he did not realize he was potentially eligible for additional RTAA benefits.

On October 30, 2017, IWD sent claimant a letter stating that it reviewed his RTAA file and found that it had not received paystubs since January 2017. IWD then informed claimant he was eligible for work weeks until he exhausted his Maximum Benefit Amount of \$10,000.00 or his benefit period end date of June 22, 2018. IWD invited claimant to submit all paystubs from January 21, 2017 through June 22, 2018 for review and processing. Finally, the letter instructed claimant to contact IWD by November 10, 2017, to discuss his employment status, plan for submitting the aforementioned paystubs, and possible continuation with the RTAA program.

On November 17, 2017, claimant spoke with Nina Gotta via telephone and explained he obtained reemployment in August 2017 and was working on obtaining paystubs from his employer. Gotta asked claimant to submit the paystubs as soon as possible, but did not provide a deadline for doing so.

On December 15, 2017, IWD received information from claimant including a letter from his employer stating he had been working for employer since August 25, 2017, for 25 hours per week earning \$10.00 per hour. Claimant also submitted a copy of his paychecks.

On December 20, 2017, IWD sent claimant a letter stating that since it had not heard from claimant by November 10, 2017, it had “exited” claimant out of the RTAA program.

#### **REASONING AND CONCLUSIONS OF LAW:**

Workers who are laid off for reasons determined to have been related to international trade may qualify for certain benefits under the Trade Act of 1974, as amended in 2002, 2011, and 2015. 19 U.S.C. § § 2271-2331. These benefits include Reemployment Trade Adjustment Assistance (RTAA). 19 U.S.C. § 2318. RTAA benefits are a wage supplement option available to older workers under the Trade Act program.

RTAA benefits include a benefit payment that is 50 percent of the difference between the wages received by the worker at the time they were separated from a trade-affected employer and the wages received by the worker in reemployment. 19 U.S.C. § 2318(a)(2). An eligible claimant may elect to receive RTAA benefits if he is at least 50 years old, earns less than \$50,000 per year in reemployment, is employed on a full-time basis as defined by the State of Iowa and is not enrolled in a training program, and is not employed at the firm from which the claimant was separated. 19 U.S.C. § 2318(3)(B). An eligible worker may receive the payments up to \$10,000.00 or for a period of 104 weeks, whichever is exhausted first. 19 U.S.C. § 2319(4),(5).

The regulatory authority for administering and interpreting the Trade Act of 1974, as amended, is granted to the United States Secretary of Labor. 19 U.S.C. § 2320 (“The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.”) The Secretary’s regulations are found at 20 C.F.R. part 617. The United States Code further authorizes the Secretary to enter into agreements with states to administer the Trade Act of 1974. 19 U.S.C. § 2311(a). When administering such laws the state agencies act as agents of the United States. 20 C.F.R. § 617.59(e). State agencies when so acting “shall apply the regulations in ... part 617.” 20 C.F.R. § 617.50(d). Furthermore, Iowa Code 96.11 mandates that IWD “shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter. . .” The federal rules require that the “Act and implementing regulations shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act and this part 617 throughout the United States. 20

C.F.R. § 617.52. The administrative law judge is therefore generally bound by the Operating Instructions and Training and Employment Guidance Letters issued by the United States Department of Labor, in addition to the pertinent statutes and regulations.

In this case, there is no statutory authority for IWD to “exit” a claimant from the RTAA benefits program prior to the end of his eligibility period or exhausting his Maximum Benefit Amount because he did not meet an agency-imposed deadline by which to submit paystubs to receive benefits. *See generally* 19 U.S.C. § 2318. Likewise, IWD representatives did not cite and the administrative law judge could not find a specific regulatory provision that mandates this result.

The Operating Instructions for Implementing the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) do not provide any guidance, instructions, or authority for “exiting” a claimant from the program when he or she does not meet an agency-imposed deadline to submit paystubs. However, the Operating Instructions do address the situation where a claimant goes through a period of unemployment after being approved for RTAA benefits:

#### **H.6. Continuing Eligibility**

As under the 2011 Act and the 2009 Act, under the 2015 Act a worker who is approved for the RTAA program and who continues to meet the eligibility criteria will be paid RTAA benefits until the end of the eligibility period or the payment of \$10,000, whichever occurs first.

Nothing in the statute precludes an individual from working for different employers within this eligibility period. Further, employment is not required to be consecutive. However, as with ATAA, RTAA benefits are not payable during periods of unemployment. . . . In the event of a period of unemployment, workers will need to complete a new application for RTAA upon reemployment. The worker would be eligible for the remaining RTAA benefits to which or she is entitled. The eligibility period continues to run from the date of UI exhaustion or reemployment.

In summary, IWD had no legal authority to “exit” claimant from the RTAA program in this situation. Claimant may have additional requirements he needs to meet to obtain further benefit payments. For instance, he may be required to complete a new application for RTAA based upon his current employment. He may need to submit paystubs with required information before receiving benefit payments based on qualifying employment. But there is no legal authority allowing IWD to cut claimant off from future benefits to which he may be entitled because of his failure to meet an agency-imposed deadline for submitting paystubs. Even if there was, IWD did not follow its own deadline in this case when it spoke with claimant on the telephone after November 10, 2017, and indicated he could still send in his paystubs. IWD also failed to make clear in any of its communications with claimant that he would be ineligible for further benefits if he did not respond with the requested information as directed.

**DECISION:**

The December 20, 2017, unemployment decision is reversed. Claimant is eligible to continue to seek RTAA benefits until he reaches his Maximum Benefit Amount or until his benefit period ends on June 22, 2018.

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Decision Dated and Mailed

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