

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBERT H JOHNSON
Claimant

APPEAL NO. 19A-UI-09200-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/20/19
Claimant: Appellant (1)**

Iowa Code Section 96.5(3)(b) – Training Extension Benefits

STATEMENT OF THE CASE:

Robert Johnson filed a timely appeal from the November 12, 2019, reference 02, decision that denied training extension benefits effective November 3, 2019, based on the deputy's conclusion that Mr. Johnson did not meet one or more of the eligibility requirements. After due notice was issued, a hearing was held on December 17, 2019. Mr. Johnson participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, the November 12, 2019, reference 01, decision that allowed department approved training for the period of November 3, 2019 through December 14, 2019, the Agency's approved lists of declining occupations and high demand occupations set forth at www.iowaworkforcedevelopment.gov. Subsequent to the appeal hearing, the administrative law judge was able to locate the claimant's application for training extension benefits and hereby takes official notice of the TEB application.

ISSUES:

Whether the claimant is eligible for training extension benefits effective November 3, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Robert Johnson established an original claim that was effective January 20, 2019. Iowa Workforce Development set Mr. Johnson's weekly benefit amount at \$502.00 and set his maximum benefit amount at \$13,052.00. At the time of the December 17, 2019 appeal hearing, Mr. Johnson had not exhausted his regular benefits. Mr. Johnson has received \$8,534.00 in regular unemployment insurance benefits and had a remaining balance of \$4,518.00. Mr. Johnson resides in Galena, Illinois. Mr. Johnson was most recently employed in the Dubuque area as a full-time construction laborer. Dubuque is in Region 1 of the Iowa Workforce Development service regions. Mr. Johnson was laid off from the employment effective August 23, 2019. The layoff was not part of a permanent reduction in operations. Iowa Workforce Development had designated constructor laborer as a high demand occupation in Region 1, rather than a declining occupation.

On November 5, 2019, Mr. Johnson filed his application for training extension benefits. In August 2019, Mr. Johnson commenced a full-time course of study in automotive mechanics at Highland Community College in Freeport, Illinois. Mr. Johnson attached a copy of his class schedule. Mr. Johnson has been making satisfactory progress in his studies and expects to complete his training in May 2021. Iowa Workforce Development has designated automotive service technicians and mechanics as a high demand occupation in Region 1.

On November 12, 2019, and Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that allowed department approved training for the period of November 3, 2019 through December 14, 2019, provided Mr. Johnson met all other eligibility requirements.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Mr. Johnson meets some of the training extension benefit requirements, but does not meet all of the training extension benefits eligibility requirements. Mr. Johnson made his application for training extension benefits by the applicable deadline. Mr. Johnson involuntarily separated from his most recent employment. That employment was full-time. Importantly, the construction laborer employment from which Mr. Johnson most recently separated is not a declining occupation within the meaning of the law. In addition, Mr. Johnson's separation did not occur in the context of a permanent reduction of operations. The automotive mechanics program in which Mr. Johnson is enrolled and in which he is making satisfactory progress is a high demand occupation in Region 1. Mr. Johnson is in department approved training status. Mr. Johnson

made a timely application for training extension benefits, but has not exhausted his eligibility for regular benefits. Because Mr. Johnson does not meet all of the eligibility requirements for training extension benefits, his application for training extension benefits must be denied.

DECISION:

The November 12, 2019, reference 02, decision is affirmed. The claimant does not meet all of the eligibility requirements for training extension benefits. The claimant's request for training extension benefits is denied.

Note: The administrative law judge needs to correct something he said to the claimant at the appeal hearing: An application for training benefits must be received *within 30 days after state or federal benefits are exhausted*.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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