

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

LYLE HILL

Claimant

HEARING NUMBER: 20BUI-03017

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-5-6, 24.40

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant was involuntarily separated from full-time employment with LGS staffing as a temporary employee in August, 2019. That separation occurred because LGS Staffing ceased operation in Iowa, and moved the Iowa operations to Kansas. Claimant resides in Region 11. He filed a claim for benefits with an effective date of August 4, 2019. He has exhausted all benefit payments on regular unemployment insurance benefits. The application for TEB was submitted before the end of the benefit year. In August, 2019, the Claimant started school at Des Moines Area Community College (DMACC) to receive a certificate in welding, and expects to complete that training in August, 2020. The Claimant's area of study is for an occupation that is considered to be a high demand occupation (HDO) as defined by Iowa Workforce Development (IWD) in Region 11. He is also in training in an occupation identified as high-technology. He is making satisfactory progress.

REASONING AND CONCLUSIONS OF LAW:

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. Specifically that section states in relevant part:

2

Page

UI-03017

20B-

b. Training extension benefits.

(1) An individual 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.

...

(4) ...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.

The regulations of the Department elaborate. Iowa Admin. Code r. 871-24.40(3) provides

(3) The course or courses must be for full-time enrollment 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.

The list of High Demand occupations is made available on the agency website as described in rule 24.40(3). The URL for the list is <https://www.iowaworkforcedevelopment.gov/2012-2022-high-demand-and-high-growth-occupations> where you can then click on an excel spreadsheet. Looking to the spreadsheet we see "51-4121 (Welders/Cutters, Solderers & Brazers)," listed in red at row 247. The text at the bottom explains.

Red = STEM: Occupations were selected based upon their preponderance or need of tools and skills from science, technology, engineering, and/or mathematics as determined by the Standard Occupational Classification (SOC) Policy Committee for the Office of Management and Budget (OMB) and Iowa Workforce Development (IWD). They are primarily found in the Computer and Math; Architecture and Engineering; Life, Physical, and Social Science; and Healthcare Practitioner and Technical SOC occupational clusters.

So the SOC is listed in red, and this indicates it is a high-technology occupation. This means that regardless of being in high demand it satisfies the condition for TEB benefits.

In addition, consistent with the finding of the Administrative Law Judge, "51-4122 Weld/Solder/Braze Machine Operators" is both in red, and indicated as in High Demand in the State and in Region 11. The training therefore satisfies the condition of being in high demand, and also for a high technology job.

There remains only the permanent reduction in operations. The testimony of the Claimant was that LGS services ceased doing any business in the state of Iowa. It is true that LGS continues to do business elsewhere, including Kansas. But the Claimant work in the middle of Iowa, and we find that moving all operations outside Iowa means that LGS had a "permanent reduction of operations at the last **place** of employment" within the meaning of the statute. Since the job loss was thus due to a permanent reduction of operations, the training meets all conditions, and the Claimant was approved for Department Approved Training, we see no ground to deny TEB.

DECISION:

The administrative law judge's decision dated May 20, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant has met the conditions for training extension benefits and should be allowed those benefits following the exhaustion of his regular benefits, assuming he is otherwise eligible. As always with TEB the Employer's account will not be charged.

Note to Claimant: The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 creates a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC). PEUC provides up to 13 additional weeks of benefits to an individual who has exhausted all rights to any regular unemployment compensation and who meets other eligibility requirements of the CARES Act. The Claimant may be eligible for these federal benefits. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/peuc-information>.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn

RRA/fnv