

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SHAUN M THOMAS**  
Claimant

**APPEAL 18A-UI-09625-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 10/15/17  
Claimant: Appellant (1R)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.3(5)b – Training Extension Benefits  
Iowa Admin. Code r. 871-24.40 Training Extension Benefits

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 29, 2018, (reference 10), unemployment insurance decision that denied claimant's request for training extension benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on October 18, 2018. Claimant participated. Department Exhibits 1 through 3 were received.

**ISSUES:**

Is the appeal timely?

Is the claimant eligible to receive training extension benefits (TEB)?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on August 29, 2018. The appellant received the decision on August 31, 2018. Claimant filed an appeal on the deadline to do so, September 8, 2018. Claimant filed her appeal using the Iowa Workforce Development website online appeal portal. The appeal appeared to have processed correctly, but claimant did not receive a confirmation email. On September 17, 2018, claimant sent an email to the Appeals Bureau and learned her appeal had not been filed. She filed an appeal immediately thereafter.

The claimant was discharged from full-time employment with Liberty Sport as a customer service/account representative on October 15, 2017. Liberty Sport is an optical laboratory. Based on a review of the administrative record, it does not appear that a Notice of Claim was sent to Liberty Sport when claimant initially filed her claim for unemployment insurance benefits. The Benefits Bureau of Iowa Workforce Development has not issued an initial decision determining whether the separation disqualifies claimant from receiving unemployment insurance benefits.

Claimant resides in Region 12.

Claimant filed a claim for unemployment insurance benefits effective October 15, 2017. Claimant exhausted all regular unemployment insurance benefit payments during the week ending June 2, 2018.

Claimant submitted the application for TEB on August 28, 2018.

Claimant began part-time classes at Western Iowa Tech in May 2018, with plans to obtain an associate's degree in accounting. Claimant began full-time classes at Western Iowa Tech on August 26, 2018, in furtherance of her degree. Claimant is making satisfactory progress in her coursework.

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

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 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.

The appellant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

For the reasons that follow the administrative law judge further concludes the claimant is not eligible to receive training extension benefits.

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 within 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 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 benefits have 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).

Claimant does not meet the eligibility requirements for unemployment benefits because she does not have a qualifying separation from employment. Claimant was not laid off from or did not voluntarily quit with good cause attributable to the employer from full-time employment in a declining occupation. Customer service is not a declining occupation in Region 12 and claimant was terminated from her last full-time employment as opposed to being laid off or resigning. Claimant was not involuntarily separated from full-time employment as a result of a permanent reduction of operations.

Additionally, claimant was not in full-time training at the time her regular benefits were exhausted and did not apply for training extension benefits within 30 days after the state benefits were exhausted.

Therefore, while claimant's desire for additional education is understandable and admirable, training extension benefits must be denied.

**DECISION:**

The August 29, 2018, (reference 10) representative's decision is affirmed. The appeal is considered timely. The claimant is not eligible to receive training extension benefits.

**REMAND:**

This matter is remanded to the Benefits Bureau of Iowa Workforce Development for a review of claimant's separation from employment with Liberty Sport to determine whether any additional investigation and determination should be made.

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Christine A. Louis  
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Decision Dated and Mailed

cal/rvs