

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON L SELBY
Claimant

APPEAL NO. 20A-UI-01121-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/24/19
Claimant: Appellant (1)

Iowa Code Section 96.3(5)(b) – Training Extension Benefits

STATEMENT OF THE CASE:

Aaron Selby filed a timely appeal from the January 31, 2020, reference 01, decision denied his request for training extension benefits effective January 26, 2020, based on the deputy's conclusion that Mr. Selby did not meet one or more of the eligibility requirements. After due notice was issued, a hearing was held on February 21, 2020. Mr. Selby participated. Department Exhibits D-1, D-2, and D-4 through D-7 were received into evidence. The administrative law judge took official notice of the Agency's list of high demand occupations, which list is posted on the Agency's website.

ISSUES:

Whether the claimant is eligible for training extension benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Aaron Selby established an original claim for benefits that was effective February 24, 2019. Mr. Selby has at all relevant times resided in Beacon, Iowa, which is located in Mahaska County. Mahaska County is in Region 15 of the Iowa Workforce Development Delivery System. Mr. Selby received unemployment insurance benefits for the period of February 24, 2019 through June 1, 2019 and exhausted his eligibility for regular unemployment insurance benefits at that time. Mr. Selby then returned to his full-time employment as an iron worker with Steel Builders, Inc. Mr. Selby continued to perform that work with that employer until October 2019, when he separated from the employment due to the physically taxing nature of the work and his age-related diminished ability to perform such work. Mr. Selby's separation from the employment was not based on a permanent reduction in operations. Iowa Workforce Development's posted a list of Region 15 declining occupations that does not include steel workers as a declining occupation. Mr. Selby has not reactivated his claim for benefits or made additional weekly claims due to his prior exhaustion of regular benefits. The claim year that began on February 24, 2019 ended on February 22, 2020. Effective February 23, 2019, Mr. Selby would be able to establish a new claim year.

On January 24, 2020, Mr. Selby drafted an application for training extension benefits. The Iowa Workforce Development Benefits Bureau received the application on January 27, 2020. The deputy's note on the application indicates the deputy denied the application for training extension benefits based on the deputy's determination that Mr. Selby had "applied too late."

In February 2020, Mr. Selby began a Commercial Driver's Training course at Indian Hills Community College in Ottumwa. Mr. Selby participated in a program orientation on February 7, 2020 and officially started the course on February 17, 2020. The course hours are full-time, 8:00 a.m. to 4:00 p.m., Monday through Thursday. Mr. Selby is on track to complete the course of study on March 26, 2020, the course completion date. Mr. Selby has a commercial driver's learning permit and will leave the course of study with a commercial driver's license (CDL). Iowa Workforce Development has identified Heavy & Tractor-Trailer Truck Drivers as a high-demand/high-growth occupation state-wide and in Region 15 specifically.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(5)(b) provides:

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 Administrative Code rule 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).

Iowa Code section 96.19(20) provides:

(20) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period has received, prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and former armed forces personnel under 5 U.S.C. ch. 85) in the individual's current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year the individual may subsequently be determined to be entitled to add regular benefits, or:

a. The individual's benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which the individual could establish a new benefit year that would include such week, and

b. The individual has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and the individual has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such

benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is considered an exhaustee.

For the reasons set forth below, Mr. Selby is not eligible for training extension benefits. Mr. Selby's most recent occupation, steel worker, is not a declining occupation within the meaning of the law. Mr. Selby's separation from that employer was not the result of a permanent reduction in operations. For purposes of the claim year that began February 24, 2019, Mr. Selby exhausted his eligibility for unemployment insurance benefits on June 1, 2019. Mr. Selby was not in department approved training at the time he exhausted his eligibility for regular benefits. The deputy correctly concluded that Mr. Selby's application for training extension benefits was untimely. Mr. Selby's request for training extension benefits was not received within 30 days of the June 1, 2019 benefit exhaustion date. Mr. Selby's request for training extension benefits is denied.

DECISION:

The January 31, 2020, reference 01, decision is affirmed. The claimant is not eligible for training extension benefits. The claimant's request for training extension benefits is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn