

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MARTIN R. BUFFINGTON
2492 160th Street
Traer, IA 50675

Iowa Workforce Development
Deb Shepherd TRA Benefit Coordinator
150 Des Moines Street
Des Moines IA 50309-5563

Dan Anderson, IWD

Appeal Number: 08-IWDUI-119
OC: 01/30/08
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)
October 22, 2008

(Decision Dated & Mailed)

20 CFR 617.19 – Requirements for participation
19 U.S.C. section 2291(a)(5) – Trade readjustment allowance conditions

STATEMENT OF THE CASE

Claimant Martin Buffington filed an appeal from an Iowa Workforce Development (IWD) decision dated September 4, 2008, denying his request for trade readjustment allowances (TRA) based on his failure to meet deadlines.

The appeal was heard by telephone conference call on October 6, 2008. Martin Buffington appeared and participated on his own behalf. He called Janice Spoonmore and Patrick Acton as witnesses. Deb Shepherd, TRA Benefit Coordinator for IWD, testified for the agency. IWD's administrative file was made part of the record.

FINDINGS OF FACT

Martin Buffington worked for Traer Manufacturing from January 1985 until he was laid off on September 7, 2007 due to a lack of work. Prior to his layoff, Mr. Buffington attended some preliminary meetings at which it was discussed in a general fashion that benefits would be available to those laid off. The specific nature of those benefits was not discussed. Traer Manufacturing conducted its layoff in a phased-in manner and Mr. Buffington was one of the earlier employees to lose his job. On October 4, 2007 the United States Secretary of Labor certified that Trade Readjustment benefits would be available to Traer Manufacturing's former employees.

On November 27, 2007 Carol Paulus of IWD met with impacted Traer Manufacturing workers to discuss the availability of training benefits. Mr. Buffington was not notified of the meeting and did not attend. At the meeting, IWD explained the deadlines for applying for benefits.

Sometime close to Thanksgiving, Mr. Buffington met up with a former co-worker who told him about the benefits meeting and asked why he had not attended. Once Mr. Buffington was made aware of the meeting, he contacted the human resources department at Traer Manufacturing to ask why he had not been notified of the meeting. Mr. Buffington was then instructed to telephone Carol Paulus.

Mr. Buffington telephoned Ms. Paulus' office and spoke to someone who sent him a benefits package. That person was unable to provide a benefits explanation session but offered to assist Mr. Buffington with any questions he might have once he looked over the package.

Mr. Buffington received the benefits package at the end of November or beginning of December. The packet contains several documents which explain the deadlines for filing for TRA allowances. The deadline for such filing is either eight weeks from certification covering the worker or sixteen weeks from the worker's separation. Mr. Buffington began to look through the package of information but decided he was unable to decipher the information. He then contacted his brother, who had also been laid off from Traer Manufacturing. Mr. Buffington's brother informed him that Patrick Acton, an IWD employee at the Marshalltown office had been of assistance to him. Mr. Buffington telephoned Mr. Acton on December 17, 2007 to make an appointment but, because of the holidays and Mr. Acton's workload, no appointment was available until after the first of the year.

Mr. Buffington met with Pat Acton on January 30, 2008. At that time, Mr. Buffington signed a document acknowledging that he had received a packet of benefit information. Additionally, although Mr. Acton informed him he had missed the deadline to apply for TRA benefits, a request for TRA income support benefits was filed.

IWD denied the request for income support benefits based on a failure to meet the filing deadline. IWD determined that the 8 week certification deadline ran on December 1, 2007. IWD calculated claimant's 16 week separation deadline as December 29, 2007. The request was filed after both deadlines.

Mr. Buffington expressed frustration with the fact he was not notified of the benefits meeting held at Traer Manufacturing in November. He testified he did not see the information regarding filing deadlines contained in the benefits package he received in late November or early December. Mr. Buffington was also concerned that he could not get in to see Mr. Acton until the end of January by which time the deadlines had expired. Mr. Buffington argued that everyone should get official notification of benefits available and the process for applying.

Janice Spoonmore testified on behalf of Mr. Buffington. She is Mr. Buffington's girlfriend and she also was employed by Traer Manufacturing in the past. Ms. Spoonmore, along with five other employees, were on disability when they were released from employment. Ms. Spoonmore noted

that she did not receive notice of the benefits meeting either and she first learned about them when Mr. Buffington met with Mr. Acton.

Patrick Acton confirmed by his testimony that Mr. Buffington was unaware of the deadlines when they met in January. Mr. Acton also confirmed Mr. Buffington was able to get an appointment with him until after the filing deadlines had run.

CONCLUSIONS OF LAW

The issue is whether Martin Buffington's application for benefits should be denied for failure to file the application or obtain a waiver prior to the applicable deadlines. A worker must meet a number of conditions to qualify for TAA/TRA, including becoming enrolled in an approved training program within the timelines provided by statute.¹ The principal time deadlines are the later of: 1) the last day of the 16th week after the worker's most recent separation from employment that meets the conditions of the statute, or 2) the last day of the 8th week after which the Secretary of Labor issues a certification covering the worker. A worker may also seek a waiver for up to 6 months. A waiver may be granted if enrollment is not available within the time period.

Mr. Buffington's primary argument is that he did not receive sufficient information about the deadlines. However, the evidence showed that he received a benefits packet at the end of November or the beginning of December; well before the 16-week deadline. The packet contained several documents which referred to the deadlines. Unfortunately, Mr. Buffington did not thoroughly review the material but decided immediately he needed assistance to understand the information. Additionally, rather than contact Ms. Shepherd or Carol Paulus as one of the documents in the packet informed him he should do, he telephoned Mr. Acton and made an appointment several weeks later.

I do sympathize with Mr. Buffington. As testified to by Ms. Shepherd, there is a cafeteria of benefits available for workers and a great deal of information is involved. However, Mr. Buffington was given the necessary information and the names and telephone numbers of the persons to contact for his questions. He did not read all of the information and chose to contact someone other than those he was directed to. Mr. Buffington had more than sufficient opportunity to inquire about the deadlines and how they worked. IWD properly denied the request for approved training.

DECISION

The decision by IWD to deny assistance is **AFFIRMED**. Claimant is not entitled to TAA/TRA due to the failure to meet the filing deadlines.

¹ 19 U.S.C. section 2291(a)(5).