

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TAMMY F ROZENDAAL
PO BOX 302
SULLY IA 50251

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 05A-UI-00787-DWT
OC: 02/29/04 R: 02
Claimant: Appellant (2)

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 Workforce Development. 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)

(Decision Dated & Mailed)

Section 96.4-6A – Department Approved Training

STATEMENT OF THE CASE:

Tammy F. Rozendaal (claimant) appealed a representative's January 14, 2005 decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits for the week ending December 4, 2004, because she did not attend one class per week because she was ill this one day. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on February 8, 2005. The Department issued an amended decision (reference 06) on February 14, 2005. This decision again held the claimant was not eligible to receive benefits for the week ending December 4, 2004, because New Horizons Computer Learning Center indicated full-time training amounts to class one day a week. On February 17, the Department sent the claimant another decision (reference 07) that held her overpaid \$322.00 in benefits she received for the week ending December 4, 2004. The February 8 hearing was reopened to address all the issues raised by the Department after the February 8, 2005 hearing. The continued hearing was held on February 21, 2005. The claimant participated in both hearings. Based on the evidence, the

arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible to receive benefits for the week ending December 4, 2004?

Has the claimant been overpaid any benefits for the week ending December 4, 2004?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of February 29, 2004. The claimant received Department approved training and receives benefits Under the Trade Readjustment Act (TRA). The claimant attends New Horizons Computer Learning Center in Des Moines. In the program the claimant is a student, she attends classes one day a week, Wednesday, and works on assignments at home the rest of the week. The claimant works between 30 to 40 hours a week on her class assignments at home.

The claimant becomes ill easily. In an attempt to make sure she was healthy enough to attend classes, the claimant received a flu shot. On December 1, 2004, the claimant was vomiting and could not drive herself to New Horizons Computer Learning Center for her Wednesday class. The claimant contacted her instructor and obtained her assignments. The claimant worked at least 40 hours the next week on her assignments because she had a test the following Wednesday. When the claimant contacted the instructor about missing class on December 1, the instructor did not believe missing one day of class would be any problem.

The claimant filed a claim for the week ending December 4, 2004, but did not claim any transportation expenses. The record indicates the Department has not paid the claimant or approved any benefits for the week ending December 4, 2004. The record also indicates for weeks subsequent to December 4, have not been paid but have been approved for payment.

REASONING AND CONCLUSIONS OF LAW:

The law states that a principal condition of entitlement to TRA benefits requires an individual to participate in a training program approved under Sec. 617.22(a). 20 CFR 617.18.18(b)(ii)(B). The Department's February 14, 2005 decision (reference 06) appears to rely on 20 CFR 617.22(f)(4), which states: Individuals in TAA approved training shall attend training full time. The hours in a day and days in a week of attendance in training shall be full-time in accordance with established hours and days of training of the training provider. The Department asserted in the February 14 decision that New Horizons Computer Learning Center established that full-time training amounts to a class, one day a week. The evidence neither supports nor denies this assertion.

The facts indicate New Horizons' instructor did not believe there would be any problem with the claimant missing the one day of class because she was ill and unable to drive to Des Moines. The evidence also indicates the claimant works on her class assignments at home about 40 hours a week and worked even more hours between December 1 and 8 because she had a test on December 8. The claimant's training consists not only of attending Wednesday classes but also completing the homework assignments. The claimant demonstrated that while she was unable to attend class on Wednesday, December 1, she made arrangements to get her assignments done for the next class period. Finally, prior to appealing the January 14, 2005

decision, neither the Department nor New Horizons Computer Learning Center informed the claimant that if she missed any Wednesday classes, she would not be eligible to receive benefits this week.

A preponderance of the evidence establishes the claimant was able to and available for the majority of the week ending December 4, 2004. Even though the claimant was ill and unable and to attend classes on December 1, she was in training the majority of this week and is eligible to receive benefits for the week ending December 4, 2004.

The claimant is legally entitled to receive benefits for the week ending December 4, 2004. If the Department has paid the claimant benefits for the week ending December 4, she has not been overpaid.

DECISION:

The representative's January 14, February 14 and 17, 2005 decisions (references 05, 06, and 07) are reversed. The claimant is eligible to receive benefits for the week ending December 4, 2004. If the Department paid her benefits for the weeks ending December 4, 2004, she is legally entitled to receive these benefits and has not been overpaid these benefits.

dlw/pjs