

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA M WUTZKE
Claimant

APPEAL NO. 11A-UI-07234-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EL TENAMPA
Employer

OC: 12/26/10
Claimant: Appellant (2)

Iowa Code § 96.4-6-a – Department Approved Training
871 IAC 24.39(2) – Department Approved Training – Able and Available

STATEMENT OF THE CASE:

Teresa Wutzke (claimant) appealed a representative's May 31, 2011 decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits based on her employment with El Tenampa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 27, 2011. The claimant participated personally. The employer participated by Rose Anaya, Owner.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 11, 2011, as a part-time bartender. She consistently worked ten hours per week. The claimant has been granted Department Approved Training (DAT) status from October 30, 2010, through December 24, 2011.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code § 96.4(6).

The able and available requirement is waived due to claimant's DAT status pursuant to 871 IAC 24.39(2).

DECISION:

The May 31, 2011, reference 05, decision is reversed. Benefits are allowed, provided the claimant is otherwise eligible. Employer's account shall not be charged for benefits paid during claimant's eligibility for DAT.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs