

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS P GRAY
Claimant

APPEAL NO. 09A-UI-15717-L

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 03/04/07
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant appealed the October 7, 2009, reference 01, representative's decision that denied training extension benefits (TEB). After due notice was issued, a hearing was held in Des Moines, Iowa on November 17, 2009. The claimant participated.

ISSUE:

The issue is whether the claimant is eligible to receive training extension benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was involuntarily separated from employment from Reed's Plumbing in January 2007 because of a lack of work and filed a claim for benefits with an effective date of March 4, 2007. Claimant has exhausted all benefit payments on regular and extension unemployment insurance benefits. The application for TEB was submitted August 21, 2009. In July 2009 he had asked for TEB after receiving a letter of eligibility dated June 10, 2009 but was told he could not sign up for benefits until the week school was to begin. On August 27, 2009, the claimant started going to school at Des Moines Area Community College (DMACC) part-time nights because day classes are full until spring semester, when he will attend day classes full-time to receive an AS degree in welding and expects to complete that training in May 2010. The claimant's area of study is for an occupation that is considered to be a high-demand occupation (HDO) as defined by Iowa Workforce Development (IWD). He is making satisfactory progress.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is eligible to receive training extension benefits.

Iowa Code § 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. (emphasis added)

(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.

Claimant does not meet the eligibility requirements for unemployment benefits, because he was not in training at the time his regular benefits were exhausted. Therefore, training extension benefits must be denied.

DECISION:

The October 7, 2009, reference 01, representative's decision is affirmed. The claimant is not eligible to receive training extension benefits.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw