

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HANA MEMISEVIC
Claimant

APPEAL NO. 11A-EUCU-00180-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/23/07
Claimant: Appellant (1)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 9, 2011 determination (reference 03) that denied her request for training extension benefits as of February 6, 2011, because these benefits are not available two years after a claim is established. The claimant did not respond to the hearing notice.

The claimant called the Appeals Section at 7:55 a.m. for the scheduled 7:30 a.m. hearing. She requested that the hearing be reopened. Based on the administrative record, the arguments of the claimant, and the law, the administrative law judge concludes the claimant did not establish good cause to reopen the hearing and is not eligible to receive training extension benefits as of February 6, 2011.

ISSUES:

Did the claimant good cause to reopen the hearing?

Is the claimant eligible to receive training extension benefits after February 6, 2011?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 23, 2007, and a subsequent benefit year during the week of December 28, 2008. She exhausted her Emergency Compensation benefits the week ending January 29, 2011. She started attending school on August 29, 2009. The claimant requested training extension benefits as of February 6, 2011.

After the claimant appealed the representative's determination that denied her request for training extension benefits, a hearing notice was mailed to her on February 28, 2011. The hearing notice informed the claimant that a phone hearing was scheduled for her on March 16, 2011 at 7:30 a.m. The hearing notice stated in bold letters that she needed to immediately call the Appeals Section when she received the notice. The notice warned the claimant that if she did not call the Appeals Section before the scheduled hearing, she would not be called on the day of the hearing.

The claimant did not read the hearing notice instructions before the scheduled hearing. When she was not called at 7:30 a.m. for the March 16 scheduled hearing, she read the hearing notice instructions and called the Appeals Section at 7:55 a.m. for the 7:30 a.m. scheduled hearing. The claimant requested an opportunity to testify.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant did not establish good cause to reopen the hearing. Her failure to read and follow the hearing instructions about calling the Appeals Section before the scheduled hearing to provide the phone number she was to be contacted at for the hearing does not constitute good cause to reopen the hearing. Therefore, her request is denied.

Iowa Code § 96.3-5-b(1) provides that a person 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 and who is in training with the approval of the director (DAT training) or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105-220, (WIA training) at the time regular benefits are exhausted, may be eligible for training extension benefits.

The regulations provide, in part, that:

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.** (Emphasis supplied.)

871 IAC 24.40(5).

In accordance with the regulation, the claimant's training benefits would end on December 25, 2010. Why? Because the claimant is eligible for the training extension benefits on a claim she established during the week of December 28, 2008. Even though the claimant has not completed her training, the law does not allow claimants to receive training extension benefits more than a calendar year following the end of the benefit year that she became eligible for the benefits. The claimant's benefit year that she established the week of December 28, 2008, ended on December 26, 2009, and a year later is December 25, 2010. (Note even though the claimant most recently received Emergency Unemployment Compensation benefits based on her December 23, 2007, the most recent claim was considered in deciding when training extension benefits would end.)

DECISION:

The claimant's request to reopen the hearing is denied. The representative's February 9, 2011 determination (reference 03) is affirmed. The claimant is not eligible to receive training extension benefits as of February 6, 2011, because this date is past the date on which the claimant is potentially eligible to receive these benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw