

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

Appeal Number: 10IWDUI296
OC: 01/17/2010
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MARK LEEPER
1716 212TH STREET
WEBSTER CITY, IA 50595

LINDSAY ANDERSON, COORDINATOR
TRA/TAA PROGRAM
430 E. GRAND AVE.
DES MOINES IA 50309

DAN ANDERSON, IWD

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)

December 29, 2010

(Dated and Mailed)

20 C.F.R. Part 617 – Trade Adjustment Assistance for Workers

STATEMENT OF THE CASE

Mark Leeper filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated April 30, 2010.¹ In this decision, the Department denied Mr. Leeper's application for Trade Adjustment Assistance benefits. The decision states that

¹ It appears from the record that Iowa Workforce Development received Mr. Leeper's appeal on May 12, 2010. The file was not transmitted to the Division of Administrative Hearings until October 19, 2010. There is nothing in the record to indicate what caused the delay in processing.

Mr. Leeper's application was denied because he was not laid off due to a lack of work.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on October 19, 2010 to schedule a contested case hearing. A Notice of Telephone Hearing was issued on October 28, 2010. On December 3, 2010, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Lindsay Anderson, Trade Adjustment Assistance (TAA) Coordinator, represented the Department and presented testimony. Appellant Mark Leeper did not appear for the hearing and the hearing was held in his absence. The Department submitted Exhibits 1 through 8, which were admitted into the record as evidence.

ISSUES

Whether the Department correctly denied the appellant's application for Trade Adjustment Assistance benefits.

FINDINGS OF FACT

Mark Leeper began working at Electrolux in 1998. He was terminated from his employment with Electrolux in February, 2010. (Exh. 4).

In April, 2010, Mr. Leeper filed with the Department a Request for Determination of Entitlement to TAA/TRA. The application requests information regarding the reason for separation from employment. Mr. Leeper checked the box for "other" and, in the comments section, wrote that he was "let go because of being treated for medical reasons." (Exh. 4; Anderson testimony).

After receiving Mr. Leeper's application for TAA benefits, the Department faxed a Request for Employment Information form to Electrolux. Lavonn Russell, labor relations manager at Electrolux, filled out the form and returned it to the Department. In the completed form, Ms. Russell checked the box indicating that Mr. Leeper separated from his employment for a reason other than lack of work. Further down on the form, Ms. Russell wrote "terminated" under the reason for Mr. Leeper's separation. (Exh. 7).

After receiving the form from Electrolux, the Department issued Mr. Leeper a denial letter dated April 30, 2010. In that letter, the Department informed Mr. Leeper that he was not eligible for TAA benefits because he was not laid off due to lack of work. (Exh. 2).

Mr. Leeper did not appear to participate in the hearing. In his appeal request, Mr. Leeper wrote that he was terminated on his birthday when all his points were supposed to be rolled over. He wrote also that he asked for an "extension" and was told extensions were not given. (Exh. 3).

REASONING AND CONCLUSIONS OF LAW

Trade adjustment assistance (TAA) benefits are available under the Trade Act of 1974 to certain workers who become unemployed as a result of increased imports.² In order to be eligible for benefits, a worker must have become totally or partially separated from qualifying employment because of a lack of work.³

The only question here is whether Mr. Leeper's separation from employment was because of lack of work or because of some other reason. On this record, I cannot conclude that Mr. Leeper's separation from employment was because of lack of work. Mr. Leeper himself wrote on his TAA application that he was terminated because of medical treatment he was receiving. Although the employer failed to elaborate on the reason for termination, it did indicate on the form submitted to the Department that Mr. Leeper did not separate from employment due to lack of work. Under these circumstances, the Department's decision denying TAA benefits to Mr. Leeper was correct.

DECISION

The Department's decision dated April 30, 2010 is **AFFIRMED**. The Department shall take any action necessary to implement this decision.

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² 20 C.F.R. 617.2.

³ 20 C.F.R. 617.3(c).