

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES C MCBEE
Claimant

APPEAL 15A-UI-11435-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/27/15
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 7, 2015, (reference 01) decision that denied the request to backdate the claim for benefits prior to September 27, 2015. After due notice was issued, a hearing was held by telephone conference call on October 28, 2015. The claimant participated personally, with one witness, Wendy McBee, wife of the claimant.

ISSUE:

Should the claimant's request to backdate the claim prior to September 27, 2015, be granted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of September 27, 2015, and desires to backdate the claim to September 20, 2015. The claimant was recovering from a knee replacement, not performing work and receiving weekly indemnity payments when he received a letter from his employer, John Deere, regarding a temporary lay-off, effective September 7, 2015. The letter advised those employees who were on weekly indemnity insurance benefits were not eligible for unemployment benefits. The claimant did not try to file his claim while still receiving the other benefits. On or around September 18, 2015, the claimant met with John Roloff, from John Deere, to provide a full release from medical care, so he could return to work. However, the employer was still on lay-off and the claimant was advised by Mr. Roloff to file his claim beginning the week of September 20, 2015. Mr. Roloff told the claimant his claim was open and set to go.

During the week of September 20, 2015, the claimant attended an unrelated fact-finding interview and learned while on the call, a claim had been opened for him, presumably by the employer, prior to that week. The claimant had not intended to file before the week of September 20, 2015, and the claim was closed inadvertently between the time of the fact-finding interview and when the claimant attempted to file for the week. The claimant visited the local Ottumwa office on Monday, September 28, 2015 to reconcile the matter, and his original claim date was deemed to be September 27, 2015, rather than September 20, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is granted.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The claimant was made aware first by his employer by way of Mr. Roloff on September 18, 2015, and during his unrelated fact-finding interview the week of September 20, 2015, that he had an open claim. He was not advised it had been closed at any time, and did not intend to close it, but rather to begin claiming benefits for the week of September 20, 2015. Based on the evidence presented, the claimant has demonstrated a good-cause reason for having failed to file a claim during the first week of unemployment. Backdating is granted.

DECISION:

The October 7, 2015, (reference 01) decision is reversed. The claimant's request to backdate the claim to September 20, 2015, is granted.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/pjs