

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY L WELLS
Claimant

APPEAL NO. 14A-UI-00104-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/08/13
Claimant: Appellant (2-R)**

871 IAC 24.2(1)a & h - Backdating

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision dated December 27, 2013, reference 02, decision that denied the request to backdate her claim for benefits. After due notice was issued, a hearing was held on January 28, 2014. Claimant did participate.

ISSUE:

The issue is whether the claim may be backdated.

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 December 8, 2013. She requests backdating to November 10, 2013. She was separated from her job on November 12, 2013, and her supervisor and human resources representative had told her at prior meetings she would be paid through December 7, 2013.

When the paycheck arrived for that pay period, she had only been paid for two days, November 11 and 12, 2013, and no money was received for the pay period ending December 7, 2013. Attempts to contact her supervisor and the human resources representative were not successful, and currently she has only been told it is "being looked into."

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.2(1)a provides:

- a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits and register for work.

871 IAC 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.

Misrepresentation by the employer is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is granted. The matter of whether the claimant made adequate work searches for the period November 10 through December 7, 2013, is remanded.

DECISION:

The representative's decision of December 27, 2013, reference 02, is reversed. The claimant's request to backdate the claim is granted to an effective date of November 10, 2013.

The issue of whether the claimant made adequate work searches during the time November 10 through December 7, 2013, is remanded to the Agency for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css