

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN G KUHLMAN
Claimant

APPEAL 16A-UI-08598-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/17/16
Claimant: Appellant (2)**

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 27, 2016 (reference 01) decision that denied backdating his claim for benefits prior to July 17, 2016. After due notice was issued, a hearing was held by telephone conference call on August 25, 2016. Claimant participated.

ISSUE:

Can the claimant's claim for benefits be backdated prior to July 17, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was given a one-week layoff from July 10 through July 16. He earned no wages during that time period. He visited his local workforce office on July 12 to seek assistance with filing his claim. He was not told at that time that his claim had expired on July 3 and that he needed to file a new claim. When he attempted to file his weekly continuing claim on July 16 he was not allowed to do so as his claim had expired. He returned to his local office for help and was told he would need to request backdating his claim. The claimant had not filed his claim in prior years as the employer (John Deere) had done so for all employees.

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) and (2) 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.

The claimant should have been told by the local office on July 12 that he needed to file a new claim. Incorrect guidance or information from the agency is considered a good cause reason for the delay in filing the claim. Backdating is allowed. The claimant's claim for benefits shall be backdated to July 3, 2016 and he shall be paid full unemployment insurance benefits for the week ending July 16, 2016.

DECISION:

The July 27, 2016, (reference 01) decision is reversed. The claimant's request to backdate the claim is granted.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs