

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DUSTIN P MCINTIRE**  
Claimant

**APPEAL NO. 10A-UI-09780-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 06/27/10  
Claimant: Appellant (1)**

871 IAC 24.2(1)A&H(1)&(2) – Backdating of Claim  
Section 96.4-4 – Earnings Requirement/\$250 Between Benefit Years

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated July 8, 2010, reference 01, that held he was ineligible for benefits effective June 27, 2010, because he failed to earn \$250.00 during or after his previous benefit year. A hearing was scheduled for August 28, 2010. The claimant did not participate.

**ISSUE:**

Whether the claimant has earned \$250.00 between benefit years.

Whether the claimant may backdate his claim.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds that: The claimant filed a claim for benefits effective June 27, 2010. The department record shows the claimant has been granted department approved training. The record shows the claimant has not earned wages of \$250.00 for insured work since his previous benefit year.

The claimant failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.4-4 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at

least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

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.

The administrative law judge concludes that the claimant is not eligible to receive regular benefits on his current unemployment claim effective June 27, 2010, because he does not meet the earnings qualification requirement of \$250.00 of insured work since his prior claim.

The administrative law judge further concludes that claimant has failed to establish a good cause to backdate his unemployment claim.

The claimant failed to participate in this hearing to establish a good cause to backdate his claim, and proof that he has otherwise satisfied the \$250.00 earnings requalification requirement.

**DECISION:**

The decision of the representative dated July 8, 2010, reference 01, is affirmed. The claimant is not eligible to receive regular unemployment benefits effective June 27, 2010 until he has worked in and been paid wages for insured work of at least \$250.00, provided he is otherwise eligible. The claimant's request to backdate his claim is denied.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs