

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID V THOMAS
Claimant

APPEAL 17A-UI-08049-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/11/17
Claimant: Appellant (1)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

David V. Thomas (claimant) filed a timely appeal from the August 1, 2017, reference 07, unemployment insurance decision that denied his request to backdate the claim for benefits prior to June 11, 2017. After due notice was issued, a hearing was held by telephone conference call on August 25, 2017. The claimant participated. No exhibits were offered or received.

ISSUE:

May the claim be backdated prior to June 11, 2017?

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 June 11, 2017, after he was discharged from his employment. He desires to backdate the claim to May 28, 2017, the week he was first suspended from work. The claimant delayed filing the claim because he did not investigate his eligibility for unemployment insurance benefits as he did not know if he would still be employed. The claimant did not contact Iowa Workforce Development (IWD) or talk to anyone else about his eligibility for benefits while he was suspended. The claimant has previously filed for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2), prior to July 12, 2017, provide:

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

(1) § 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.

This rule was amended effective July 12, 2017, and states:

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 files a claim for benefits.

(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:

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;
2. The claimant filed an interstate claim against another state which has been determined as ineligible.

The new rule provides fewer acceptable reasons to allow backdating. However, the claimant is requesting backdating for a week that occurred prior to July 12, before the amendments went into effect. Therefore, the pre-amendment rule will be applied to this case.

Even using the more permissive rules for backdating, the claimant's request for backdating is denied. The claimant's failure to investigate availability of unemployment insurance benefits when not related to misinformation is not a good reason to delay filing a claim for benefits. The claimant has not shown good cause for the delay in filing his claim. Backdating is denied.

DECISION:

The August 1, 2017, reference 07, unemployment insurance decision is affirmed. The claimant's request to backdate the claim to May 28, 2017, is denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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