

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WAYNE W SOLOMON
Claimant

APPEAL NO. 16A-UI-05427-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/17/16
Claimant: Appellant (1)

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Wayne Solomon filed a timely appeal from the May 3, 2016, reference 02, decision that denied his request to backdate his claim to a date prior to April 17, 2016. After due notice was issued, a hearing was held on May 27, 2016. Mr. Solomon participated. Exhibit A was received into evidence.

ISSUE:

Whether there is good cause to backdate the claim to a date prior to April 17, 2016.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Wayne Solomon was laid off from his full-time employment with Walters Management Group effective Thursday, March 31, 2016. Mr. Solomon had worked for the employer as a full-time over-the-road truck driver. The employer had told him a couple weeks earlier that the employer might be shutting down operations. The employer had notified Mr. Solomon a week before the effective layoff date that the employer would indeed be laying off Mr. Solomon. The employer did not do anything to pressure Mr. Solomon into not filing a claim for unemployment insurance benefits. The employer provided Mr. Solomon with a lead on a new job. Mr. Solomon did not take any immediate steps to establish a claim for unemployment insurance benefits. Instead, Mr. Solomon focused on his job search, but found it a challenge to secure new employment as a commercial truck driver in light of a 2011 matter involving driving under the influence.

On Sunday, April 17, 2016, Mr. Solomon completed an online application for unemployment insurance benefits. Workforce Development deemed the claim effective April 17, 2016. On April 21, 2016, Mr. Solomon completed a written request to backdate his claim for benefits to April 1, 2016.

REASONING AND CONCLUSIONS OF LAW:

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 evidence fails to establish good cause under the applicable law to backdate the effective date of the claim to a date prior to April 17, 2016. The evidence indicates that Mr. Solomon elected to defer his application for unemployment insurance benefits. Mr. Solomon applied for benefits on Sunday, April 17, 2016 and Workforce Development correctly set April 17, 2016 as the effective date of the claim. Mr. Solomon's decision to wait to file unemployment insurance benefits while he focused instead on his job search does not justify the delay in filing the claim or provide good cause to backdate the claim. Mr. Solomon could have applied for benefits immediately upon separating from the employment, had he chosen to do so and thereby could have begun receiving benefits earlier. The request to backdate the claim to a date prior to April 17, 2016 must be denied.

DECISION:

The May 3, 2016, reference 02, decision is affirmed. Good cause does not exist to backdate the claim for benefits to a date prior to April 17, 2016. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs