

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN P WITTER
Claimant

APPEAL NO. 15A-UI-12154-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/26/14
Claimant: Appellant (1)**

871 IAC 24.2(1)(e) & (g) – Retroactive Benefits

STATEMENT OF THE CASE:

Justin Witter filed a timely appeal from the October 27, 2015, reference 05, decision that denied his request for retroactive benefits for the two-week period of October 4, 2015 through October 17, 2015. After due notice was issued, a hearing was held on November 16, 2015. Mr. Witter participated. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-12020-JTT. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency's administrative records: DBRO and KCCO.

ISSUE:

Whether there is good cause to allow retroactive benefits for the two-week period of October 4, 2015 through October 17, 2015.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Justin Witter established his most recent *original* claim for benefits during the week that started October 26, 2014. Mr. Witter had established several other claims during prior claim years.

On September 29, 2015, Mr. Witter separated from employer Whirlpool Corporation, employer account number 086656). The employer did not state anything to Mr. Witter regarding whether he should or should not file a claim for unemployment insurance benefits. On or about October 6, 2015, Mr. Witter went to the Cedar Rapids Workforce Development Center and used a computer there to reactivate his claim for unemployment insurance benefits. Workforce Development deemed the claim to be effective October 4, 2015. That was the Sunday that started the week during which Mr. Witter made his application for benefits. At the time Mr. Witter established the additional claim for benefits, he received printed instructions regarding the need to make weekly claims for benefits and the process by which to make weekly claims. Mr. Witter was already familiar with the weekly claims process by virtue of his previous claims. At the time Mr. Witter established the additional claim for benefits, he also

received an Unemployment Insurance Benefits Handbook that set forth the weekly claim requirement and instructions.

Once Mr. Witter established the additional claim that was deemed effective October 4, 2015, he took no steps to make a timely weekly claim for the weeks that ended October 10 and October 17, 2015. On or about October 24, 2015, Mr. Witter made a weekly claim for the week that ended October 24, 2015. Mr. Witter cites two reasons for not making weekly claims for the weeks ending October 10 and 17. Mr. Witter had applied to the Department of Human Services for food stamps. Mr. Witter asserts that a DHS representative told him that his application for unemployment insurance benefits had been denied, though it is unclear how a DHS representative would have had such information. Mr. Witter asserts as well that he did not make weekly claims because he did not wish to collect unemployment insurance benefits. On or about October 26, 2015, Mr. Witter spoke with a Workforce Development representative and requested weekly benefits for the weeks that ended October 10 and 17, 2015.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code section 871 IAC 24.2(1)(e) and (g) provide as follows:

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

24.2(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:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

The individual shall set forth the following:

(1) That the individual continues the claim for benefits;

- (2) That except as otherwise indicated, during the period covered by the claim the individual was unemployed, earned no wages and received no benefits, was able to work and available for work;
- (3) That the individual indicates the number of employers contacted for work;
- (4) That the individual knows the law provides penalties for false statements in connection with the claim;
- (5) That the individual has reported any job offer received during the period covered by the claim;
- (6) Other information required by the department.

The evidence establishes that Mr. Witter was well familiar with the week claims reporting requirement and procedure prior to establishing the additional claim that was deemed effective October 4, 2015. Mr. Witter had received appropriate instructions concerning the steps he needed to take in a timely manner to collect weekly benefits. Mr. Witter was well familiar with the process and requirement. There would be no basis for a DHS representative to advise Mr. Witter concerning his eligible for unemployment insurance benefits through Iowa Workforce Development. If Mr. Witter had any questions about such matters, the reasonable thing to do would be to contact Workforce Development in a timely manner with those questions. It would not be reasonable to just cease making weekly claims. The evidence fails to establish good cause to authorize retroactive benefits for the weeks ending October 10 and 17, 2015. The request for retroactive benefits is denied.

DECISION:

The October 27, 2015, reference 05, decision is affirmed. Good cause does not exist to authorize retroactive benefits for the weeks ending October 10 and 17, 2015. The claimant's request for retroactive benefits is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs