

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEITH A NIEHAUS
Claimant

APPEAL NO. 17A-UI-07515-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CROSSROADS MANUFACTURING LLC
Employer

OC: 05/21/17
Claimant: Appellant (5)

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim
871 IAC 24.2(1)(e) & (g) – Retroactive Benefits

STATEMENT OF THE CASE:

Keith Niehaus filed a timely appeal from the July 12, 2017, reference 01, decision that denied his request to backdate an additional claim for benefits to a date prior to July 2, 2017. After due notice was issued, a hearing was held on August 11, 2017. Mr. Niehaus participated on his own behalf *and* as the employer's representative. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, and the Agency representative's notes concerning contact with the claimant on July 11, 2017.

ISSUES:

Whether there is good cause to backdate the additional claim for benefits to a date prior to July 2, 2017.

Whether there is good cause to allow retroactive benefits for the benefit week that ended July 1, 2017.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Keith Niehaus is Chief Operating Officer for Crossroads Manufacturing, L.L.C. Mr. Niehaus established an original claim for benefits that was effective May 21, 2017. As part of the online application for unemployment insurance benefits, Mr. Niehaus acknowledged his obligation to read, know and follow the Unemployment Insurance Handbook. As part of the application process, Mr. Niehaus received instructions for filing weekly benefit claims and a warning that he must file a weekly claim for any week for which he desired to receive benefits. After Mr. Niehaus established his original claim, he made timely weekly claims for week that ended May 27, 2017 through the week that ended June 17, 2017. Mr. Niehaus made his claim for the week that ended June 17 on Saturday, June 17, 2017. Mr. Niehaus subsequently returned to work and, therefore, did not make a weekly claim for the week that ended June 24, 2017.

On Friday, June 23, 2017, Mr. Niehaus and his partners decided that Mr. Niehaus would thereafter be off work, and off the payroll, until there was further need for his services.

Mr. Niehaus waited until Saturday, July 8, 2017 to make his next weekly unemployment insurance claim. This was beyond the deadline for making a weekly claim for the benefit week that ended July 1, 2017. The deadline for making a claim for that week was Friday, July 7, 2017. Mr. Niehaus was disappointed on July 8, 2017, when he learned that the Workforce Development computer system had recorded a weekly claim for the week that ended July 8, 2017 instead of a weekly claim for the week that ended July 1, 2017.

Mr. Niehaus had been aware since establishing the original claim for benefits that he would need to reactivate the claim after a break in reporting. However, not making a weekly claim for the week that ended June 24, 2017, the week when Mr. Niehaus was back at work, would ordinarily not be a sufficient break in reporting to trigger the need to reactivate the claim for benefits. Mr. Niehaus was functioning under the belief that he would have to reactivate the claim after any break in reporting. Despite that belief, Mr. Niehaus did not take steps to reactivate the claim during the week that ended July 1, 2017.

While the one-week break in the weekly claim reporting would not be long enough to necessitate reactivation of the claim, a two-week break in reporting would trigger a lapse in the claim and necessitate reactivation of the claim. The need to reactivate the claim would have been triggered on July 8, 2017, by Mr. Niehaus' failure to make a weekly claim for the benefit week that ended July 1, 2017 by the July 7, 2017 deadline. Mr. Niehaus took steps to reactivate the claim on July 6, 2017.

The issues that arose in connection with Mr. Niehaus' unemployment insurance claim came about when Mr. Niehaus was preoccupied with responding to his son's legal problems and military service problems. After Mr. Niehaus had gone off work following the June 23, 2017 discussion with his partners, Mr. Niehaus had traveled to Ohio, where his son was incarcerated. Mr. Niehaus' son was supposed to be serving with the Iowa National Guard in Waterloo. Mr. Niehaus had taken his notebook computer with him when he traveled to Ohio to assist his son. Mr. Niehaus had an Internet "hot spot" that he could use to access the Internet as needed.

On July 11, 2017, Mr. Niehaus contacted Workforce Development customer service to request unemployment insurance benefits for the week that ended July 1, 2017.

REASONING AND CONCLUSIONS OF LAW:

While the lower decision deemed the relevant legal issue to be whether there is good cause to *back date* the additional claim for benefits that was deemed effective July 2, 2017, that is not the issue that prevented Mr. Niehaus from receiving unemployment insurance benefits for the week that ended July 1, 2017. Instead, the problem with receiving benefits for that week arises from Mr. Niehaus' failure to make a timely weekly claim for that week. In other words, the relevant question is whether Mr. Niehaus is eligible for *retroactive* benefits for the week that ended July 1, 2017.

Iowa Administrative Code section 871 IAC 24.2(1)(g)(1) provides as follows:

- g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following 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.

Under the administrative rule, Mr. Niehaus had until the close of business on Friday, July 7, 2017 to make a weekly claim for the benefit week that ended July 1, 2017. Mr. Niehaus attempted to make the weekly claim on July 8, 2017, at which time it was too late to make a weekly claim for the week that ended July 1, 2017. While Mr. Niehaus' response to his son's circumstances is laudable, those circumstances did not provide good cause for the failure to make a timely weekly claim for the week that ended July 1, 2017. At all relevant times, Mr. Niehaus had with him a computer and a hot spot, which was all he needed to access the Workforce Development website and take the required few minutes to make a weekly unemployment insurance claim for the benefit week that ended July 1, 2017. The evidence fails to establish good cause to allow retroactive benefits for the week that ended July 1, 2017.

Because the evidence presents no bona fide *backdating* issue, the administrative law judge need not spend much time on that issue.

Iowa Administrative Code rule 871-24.2(1)(a) and (h) provide as follows:

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:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

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.

Mr. Niehaus took steps to reactivate the claim on July 6, 2017. Though it was not necessary to reactivate the claim *as of that date*, the steps Mr. Niehaus took on that date would generate a reactivation date of July 2, 2017. In other words, Workforce Development appropriately deemed the additional claim to be effective July 2, 2017, the Sunday that started the week that included July 6, 2017.

DECISION:

The July 12, 2017, reference 01, decision is modified as follows. The claimant is not eligible for retroactive benefits for the week that ended July 1, 2017. The agency correctly established the effective date of additional claim for benefits to be July 2, 2017.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs