

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

Appeal Number: 06-IWDUI-010
OC: 07/20/03
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

GARRETT A FRIGGE
200 SOUTH JOHN STREET
SIOUX CITY IA 51103

STATE CLEARLY

INVESTIGATION AND RECOVERY
IOWA WORKFORCE DEVELOPMENT
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

(Administrative Law Judge)

February 10, 2006

(Decision Dated & Mailed)

871 IAC 24.2(1)g – Request for Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development Department decision dated December 21, 2005, reference 02, which held denied the claimant's request for retroactive benefits for the period from March 14, 2004 to April 3, 2004.

The hearing was held pursuant to due notice on February 7, 2006, by telephone conference call. The claimant participated. Larry Finley, Investigator, participated on behalf of Iowa Workforce Development.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered all of the evidence in the record, finds that: The claimant filed a claim for unemployment insurance benefits effective July 20, 2003. The department records show the claimant exhausted his benefit entitlement, as of March 14, 2004, and that he did not call-in to claim for benefits after that date.

A decision was issued by this ALJ dated October 7, 2005 that advised the claimant he could make an application to the department for retroactive (backdating) unemployment benefits. The claimant offered a statement to Investigator Finley, and made his application on December 8, 2005. The claimant request that he be allowed to submit unemployment claims for the weeks ending March 20, March 27, and April 3, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's request for retroactive benefits should be approved.

871 IAC 24.2 Procedures for workers desiring to file a claim for benefits for unemployment insurance provides:

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:

g. No continued claim for benefits shall be allowed ... unless reasonable cause can be shown for the delay

The administrative law judge concludes that the claimant's request for retroactive benefits is denied, as there is no reasonable cause for the delay in pursuing those benefits pursuant to 871 IAC 24.2(1)g. The claimant was given a second chance by reason of the October 5, 2005 decision to pursue an application for benefits, because there was an issue whether the department failed to acknowledge this request when the overpayment arose. However, when given a second chance, the claimant waited more than two months to pursue this application, and there is no reasonable cause for this most recent delay.

DECISION:

The decision of the representative dated December 21, 2005, reference 02, is AFFIRMED. The claimant's request for retroactive benefits is denied.

rls