

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DALE G SMITH
2521 WASHINGTON AVE
SIOUX CITY IA 51105

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-03704-AT
OC: 11-23-03 R: 01
Claimant: Appellant (1)

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.

STATE CLEARLY

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 Workforce Development. 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 871 IAC 24.2(1) – Backdating Claims

STATEMENT OF THE CASE:

Dale G. Smith filed a timely appeal from an unemployment insurance decision dated March 23, 2004 reference 01, which denied his request to backdate his additional claim prior to March 21, 2004. After due notice was issued, a telephone hearing was held April 21, 2004 with Mr. Smith participating. The administrative law judge takes official notice of the agency booklet, "Facts About Unemployment Insurance 2003-2004."

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Dale G. Smith worked only two days during the week

of March 14, 2004. He earned less than the sum of his weekly benefit amount plus \$15.00. Mr. Smith did not attempt to file an additional claim for benefits until Monday of the following week.

When Mr. Smith filed his original claim in November of 2003 he received the pamphlet "Facts About Unemployment Insurance 2003-2004." On page 11 of that booklet are instructions on how to reactivate a claim. Included in those instructions is the following:

If you have an existing claim (claims are effective for one year) and you stopped claiming (weekly-continued claim call) for one or more weeks and want to receive benefits again, you must reactive your claim. Reactivating an existing claim is done over the telephone using the UI Service Center's Interactive Voice Response (IVR) system. You must reactivate your claim during the week you want to claim, not after the week is over.

Mr. Smith had last filed a weekly claim for the week ending January 3, 2004. It was necessary for him to reactivate his claim in order to be paid benefits for the week of March 14, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether good cause has been established for backdating the additional claim. 871 IAC 24.2(1) provides that new, additional and reopened claims for benefits are effective on the Sunday of the calendar week in which the individual contacts the agency to request activation of the claim. According to the regulation, a claim may be backdated only if good cause is established.

The evidence in the record establishes that Mr. Smith had received the instructional booklet. Thus, he had access to the necessary information to allow him to file a timely request for the additional claim. Since he did not read and follow the instructions, he has not established good cause for backdating.

DECISION:

The unemployment insurance decision dated March 23, 2004 reference 01 is affirmed. The claimant's request to backdate his additional claim prior to March 21, 2004 is denied.

sb/b