

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRANDON W RICE
Claimant

DEERE & COMPANY
Employer

APPEAL 19A-UI-04981-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/19/19
Claimant: Appellant (1)

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)h(1), (2) – Backdating
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 10, 2019, (reference 01) unemployment insurance decision that denied benefits based upon claimant's availability for work. The parties were properly notified about the hearing and waived notice regarding the issue of whether the claim should be backdated. A telephone hearing was held on July 16, 2019. Claimant participated. Employer participated through human resource representative Janice Gordon.

ISSUES:

Is the claimant eligible to receive partial benefits?
Is the claimant able to and available for work?
Is the claimant still employed at the same hours and wages?
Can the claim be backdated prior to May 19, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for unemployment insurance benefits with an effective date of May 19, 2019.

Claimant was temporarily laid off during the one week ending May 18, 2019. Because claimant did not file his initial unemployment insurance claim until the week of May 19, 2019, he was not able to file a weekly continued claim for the one week he was laid off, the week ending May 18, 2019. Therefore, he desires to backdate the claim to May 12, 2019 so he can claim benefits for that week.

Claimant did not file a claim for unemployment insurance benefits in another state prior to filing the present claim.

Claimant has been employed on a full-time basis from May 19, 2019, going forward.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is denied.

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) 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 files a claim for benefits.

(2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim:

1. If the claimant filed an interstate claim against another state which has been determined as ineligible.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

(4) The effective date of an interstate claim shall be the Sunday of the week the claim was filed, except if proof is obtained from another state that the claimant filed in that state and it was determined that the claim should have been filed in Iowa.

The Iowa Administrative Code only allows for backdating in the situation where a claimant filed a claim in another state and is determined to be ineligible. That did not happen in this case. Therefore the claim cannot be backdated.

Claimant has been employed on a full-time basis at all times from May 19, 2019, going forward.

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Claimant is not eligible for any benefits after May 19, 2019, as he is not unemployed and is working on a full-time basis.

DECISION:

The June 10, 2019, (reference 01) unemployment insurance decision is affirmed. The claimant's request to backdate the claim is denied. Claimant is not unemployed effective May 19, 2019. Therefore, claimant is not eligible for benefits.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn