

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVIA D CREEK
Claimant

APPEAL 18A-UI-00198-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/10/17
Claimant: Appellant (1)**

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 28, 2017, (reference 01) decision that denied her request to backdate the claim for benefits prior to December 10, 2017. After due notice was issued, a hearing was held by telephone conference call on January 30, 2018. Claimant participated. Claimant's Exhibit A was received.

ISSUE:

May the claim be backdated prior to December 10, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of December 10, 2017 and desires to backdate the claim date to December 3, 2017. The claimant was laid off due to lack of work on November 30. She used up her remaining vacation time on December 1 and December 4. She was unable to file her claim for benefits during the week of December 3 as her mother-in-law died on November 25 and she was very busy planning and attending the funeral during the week. She mistakenly believed that she had to actually go to her local office to file her initial claim for benefits. She did not contact anyone at Iowa Workforce Development to see if her assumption was correct. The claimant could have used her home computer to file her initial claim for benefits during the week of December 3, 2017.

The department has not failed to recognize the expiration of the claimant's previous benefit year and there is not an interstate claim against another state which has been determined as ineligible.

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) and (2) 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 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.

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

File a Claim

Hours: Monday through Friday, 8:00 am to 4:30 pm
www.iowaworkforcedevelopment.gov
<https://uiclaims.iwd.iowa.gov/UIInitialClaim/>

The administrative code regulations have always required that employees file their claim for benefits during the first week they are unemployed. Iowa Admin. Code r. 871-24.2(1)h(1) and (2) allows backdating for only the two reasons cited above. Neither of those reasons applies in this case. Accordingly, the backdating request must be denied.

DECISION:

The December 28, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant's request to backdate the claim is denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs