

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

CRYSTAL L THOMASON
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IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-00689-DT
OC: 01/04/04 R: 03
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)

871 IAC 24.2(1)a & h(1) & (2) - Backdating

STATEMENT OF THE CASE:

Crystal L. Thomason (claimant) appealed a representative's January 22, 2004 decision (reference 03) that denied the claimant's request to backdate the claim to December 21, 2003. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on February 11, 2004. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant had a temporary layoff from employment effective December 22, 2003. She established a claim for unemployment insurance benefits effective January 4, 2004. The delay in filing the claim was due to her not remembering about the possibility of receiving

unemployment insurance benefits during the layoff until she was reminded by another employee upon her return to work on January 5, 2004.

In August 2003, the employer had informed the employees that it would be shutting down for two weeks over the Christmas and New Year holidays. Approximately the week prior to December 22, the claimant's supervisor inquired of her whether she would be available during the two-week period if some work should become available, to which the claimant responded that she would. The claimant was not called for any work the week ending December 27, but she did not think of making a claim for benefits at that time. During the week ending January 3, 2004, the claimant was called in and worked a few hours; however she still did not think of filing a claim to receive at least partial benefits until being reminded by the coworker upon her return to work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant's claim should be backdated.

Agency rule 871 IAC 24.2(1)h provides that claims for unemployment insurance benefits are ordinarily effective on the Sunday of the calendar week in which the individual files the initial claim. For good cause, a claim may be backdated. The reason the claimant failed to file an earlier unemployment insurance claim was because she did not recall or realize that she might be eligible until after her return to work. This is not considered a good cause reason for having failed to file during the weeks in question. She has not shown she received incorrect advice by an agency employee, that the failure to file an earlier claim was due to the employer's failure to comply with the law, or that the employer prevented the claimant from promptly filing a claim by providing misleading information regarding her eligibility. She has failed to establish sufficient grounds to justify or excuse the delay in filing her claim. Backdating is denied.

DECISION:

The representative's January 22, 2004 decision (reference 03) is affirmed. The claimant's request to backdate her claim is denied.

ld/kjf