

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

LESLIE W IMMENS
Claimant

APPEAL NO. 17A-UI-02461-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/19/17
Claimant: Appellant (1)

871 IAC 24.2(1)(h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Leslie Immens filed a timely appeal from the March 1, 2017, reference 01, decision that denied his request to backdate his claim to a date prior to February 19, 2017. After due notice was issued, a hearing was held on March 29, 2017. Mr. Immens participated. The administrative law judge took official notice of the following Agency administrative records: DBRO, DBIN, KCCO, the letter the Agency mailed to Mr. Immens on January 31, 2017 regarding expiration of his claim year, and the Agency representative's notes concerning contact with the claimant on February 28, 2017.

ISSUE:

Whether there is good cause to backdate the claim to a date prior to February 27, 2017.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On January 31, 2017, Iowa Workforce Development mailed a letter to claimant Leslie Immens at his last-known address of record. The letter notified Mr. Immens that his unemployment insurance claim would end on February 12, 2017 and that he was still unemployed at that time he must file a new claim for benefits. The letter told Mr. Immens that his new claim for benefits would start on the Sunday of the week during which he submitted his application. The letter told Mr. Immens that in order to avoid a break in benefits between his then-current and new claim, he must file the new claim during the week of February 12, 2017. The letter provided the website address where Mr. Immens could submit the new application for benefits. Mr. Immens received the January 31, 2017 in a timely manner, prior to the expiration of his claim year. The claim year that was about to expire had begun on February 14, 2016 and was actually set to expire on Saturday, February 11, 2017.

Mr. Immens describes himself as “computer illiterate” and relies upon his wife’s computer skills when attending to unemployment insurance matters. During the week of December 12-18, 2017, Mr. Immens’ wife was especially busy. She had just started new employment on February 1, 2017 and was working 56 hours per week. Mr. Immens and his wife did not take steps to establish the new claim and new claim year until Sunday, February 19, 2017. On that

day, the completed an application for benefits and established a claim that Workforce Development, and Workforce Development's computer system, deemed effective February 19, 2017. Mr. Immens thereafter commenced making weekly claims on the new underlying claim for benefits. Mr. Immens and/or his wife contacted a Workforce Development Workforce Advisor during the last week of February to request the claim be backdated to February 12 and indicated that they had forgotten to file the application for benefits until February 19, 2017.

REASONING AND CONCLUSIONS OF LAW:

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 reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(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:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the

provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

Unfortunately, Mr. Immens delay in filing the new claim does not present good cause to backdate the effective date of the claim. Workforce Development had given Mr. Immens appropriate notice about the expiration of his claim year and the need to establish a new claim during the week of February 12, 2017 to avoid a break in benefits. The weight of the evidence establishes that Mr. Immens waited until the Sunday of the following week, February 19, 2017 to take steps to establish the new claim. During the hearing, Mr. Immens thought the application for benefits had been made on February 17 or 18, 2017. The weight of the evidence indicates that the application was made no earlier than February 19, 2017. If the application for benefits had been submitted anytime during the week of February 12-18, 2017, the Workforce Development computer system would have automatically assigned Sunday, February 12, 2017 as the effective date of the claim, in keeping with the applicable law cited above. The fact that the computer assigned February 19, 2017 as the effective date of the claim strongly indicates that the application for benefits could not have been filed before that date. If the application for benefits had been submitted anytime during the week of February 19-25, 2017, the Workforce Development computer system would automatically assigned Sunday, February 19, 2017 as the effective date of the claim, in keeping with the applicable law cited above. That is what happened here. That conclusion is supported by Mr. Immens

DECISION:

The March 1, 2017, reference 01, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause does not exist to backdate the claim for benefits to a date prior to February 19, 2017. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs