

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES E DAY
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 15A-UI-11615-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/13/15
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

James Day filed a timely appeal from the October 15, 2015, reference 03, decision that denied his request to backdate his additional claim to a date prior to October 11, 2015. After due notice was issued, a hearing was held on October 29, 2015. Mr. Day participated. Work Advisor Kelly Timmerman also provided testimony. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, WAGE-A, the October 6, 2015, reference 01, decision and associated October 5, 2015 fact-finding materials. The claimant requested that the hearing be moved up to October 29, 2015 and waived additional notice of the hearing.

ISSUE:

Whether there is good cause to backdate the additional claim to a date prior to October 11, 2015.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: James Day established a claim for benefits that was effective September 13, 2015. In connection with establishing the claim, Mr. Day received a copy of the Claimant Handbook, but did not read it. In connection with establishing the claim, Mr. Day received instructions on how to make a weekly claim for benefits and his obligation to do so. Mr. Day was still working at the time he established the original claim and did not immediately claim benefits in connection with the claim. On September 30, 2015, Mr. Day separated from employment with Team Staffing Solutions. On that same day, Mr. Day went to the Fort Madison Workforce Development center and spoke with Workforce Advisor Kelly Timmerman. Ms. Timmerman erroneously advised Mr. Day to delay further action on the claim until after an Able & Available issue could be resolved. On October 5, 2015, Mr. Day participated in a fact-finding interview that addressed his availability for work effective September 13, 2015. On or about Friday, October 9, Mr. Day received the October 6, 2015, reference 01, decision that denied benefits effective September 13, 2015, based on a conclusion that he was working and therefore did not meet the availability requirement. On Tuesday, October 13, 2015, Mr. Day returned to the Fort Madison Workforce Development Center to meet with Ms. Timmerman. At that time, the pair took steps

to establish the additional claim for benefits. On that same day, the pair took steps to request backdating of the claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

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) § 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.

(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 the 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.

The evidence establishes good cause to backdate the additional claim for benefits to September 27, 2015. That was the Sunday that started the week during which Mr. Day went to Workforce Development and was erroneously instructed by an Agency representative to delay taking further action on the claim.

DECISION:

The October 15, 2015, reference 03, decision is reversed. The claimant has presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause exists to backdate the claim for benefits to September 27, 2015. The claimant's request to backdate the claim is granted.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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