

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARCY L CLARK
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-08577-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/26/16
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 28, 2016, (reference 02) decision that denied the request to backdate the claim for benefits prior to June 26, 2016. After due notice was issued, a hearing was held by telephone conference call on August 25, 2016. Claimant participated. The record was held open for claimant to submit a copy of her confirmation number from the C2T system. Client never submitted any documentation showing she had registered her telephone number where she could be reached for the hearing on C2T.

ISSUE:

Can the claimant's claim for unemployment insurance benefits be backdated prior to June 26, 2016?

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 June 26, 2016 and desires to backdate the claim to June 12, 2016. The claimant was separated from her employment on April 15. Her employer provided her with a severance package that would pay her through June 12, 2016. During a meeting with her employer the claimant was led to believe by her employer that she could not file a claim for benefits until her severance package expired on June 12, 2016. The claimant attempted to file her claim at the end of May but it was not successful. When she received notification from the agency on June 18 that her severance pay would not be deductible from her unemployment insurance benefits, she decided to try and file her claim again. The claimant delayed filing her claim based upon the information presented by her employer.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Misrepresentation from the employer about the employment relationship and eligibility for unemployment insurance benefits is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The July 28, 2016 (reference 02) decision is reversed. The claimant's request to backdate the claim is granted. The claimant's claim for benefits shall be backdated to June 12, 2016 and she shall be paid full unemployment insurance benefits for the two-week period ending June 25, 2016.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs