

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSH W KLEIN
Claimant

APPEAL 16A-UI-02765-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/03/16
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant filed an appeal of the March 1, 2016 (reference 02) decision that denied the request to backdate the claim for benefits prior to February 28, 2016. After due notice was issued, a hearing was held by telephone conference call on March 29, 2016. Claimant participated.

ISSUE:

Can the claimant backdate the claim prior to February 28, 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 January 3, 2016. He had a prior claim with an effective date of January 4, 2015. The claimant was laid off for the Christmas holiday beginning on December 21, 2015. He did not file an additional claim or reopen his claim for benefits because he was traveling out of state for the holidays. The claimant received a copy of the handbook for employees, the 2015 edition, which provides instructions on page five on how to reactivate or reopen a claim. The claimant did not read the handbook for employees.

The claimant then returned to work and again was laid off the week of February 22, 2016. He again failed to file his claim during the first week of his unemployment. The claimant had already been denied back dating his claim once and should have sought assistance instead of assuming he could backdate his claim.

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 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) 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.

(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.

Failure to read and follow the instructions in the handbook for employees and failing to seek help from IWD is not good cause reasons for having failed to file a claim for benefits during the first week of unemployment. Backdating is denied.

DECISION:

The March 1, 2016 (reference 02) decision is affirmed. The claimant's request to backdate the claim is denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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